



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **LON/00AC/LSC/2022/0299**

**HMCTS code  
(paper, video,  
audio)** : **Face to Face hearing**

**Property** : **267 Sydney Road, London N10 2NT**

**Applicant** : **Ms L Topic (also known as Ms Boras)**

**Representative** : **N/A**

**Respondent** : **London Borough of Barnet**

**Representative** : **Will Beetson Counsel instructed by  
Judge Priestley solicitors (Mr M Oakley)**

**Type of application** : **For the determination of the liability to  
pay service charges under section 27A of  
the Landlord and Tenant Act 1985**

**Tribunal members** : **Judge H Carr  
Ms A Flynn**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **15th June 2023**

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**DECISION**

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## **Covid-19 pandemic: description of hearing**

This has been a face-to-face hearing. The documents that I was referred to are in a bundle of 1058 pages, the contents of which I have noted. The Applicant also provided videos the contents of which the Tribunal has noted. The order made is described below.

## **Decisions of the tribunal**

- (1) The tribunal determines that the sum of £7,512.71 is payable by the Applicant in respect of the charges for the major works.
- (2) The tribunal determines that the sum of £555.10 for the year 2018 – 2019 and £594.60 for the service charge year 2019 – 2020 is payable by the Applicant in respect of the service charges demanded in those periods.
- (3) The tribunal makes the determinations as set out under the various headings in this Decision
- (4) The tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

## **The application**

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Applicant in respect of the service charge years 2018 – 2019 and 2019 – 2020 and for the charges for major works relating to the replacing of the Electrical Rising Main and associated works.

## **The hearing**

2. The Applicant appeared in person and the Respondent was represented by Mr Will Beetson of Counsel. His instructing solicitor, Ms Khan was present. Also in attendance for the Respondent were Mr McFarlane the surveyor and Mr S Wilson
3. The matter was listed for a 2 day hearing and was heard on 17<sup>th</sup> And 18<sup>th</sup> April 2023. The Applicant was adamant that two days was insufficient and wanted the matter listed for at least three days . She also wanted an inspection of the estate and of her flat to take place. The tribunal considered that the two day hearing was proportionate to the issues in hand and did not consider that anything would be achieved by an inspection of the property as the work that is objected to as unnecessary has already been done.

4. Immediately prior to the hearing the Applicant handed in further documents containing information from her electrician about the cabling and relating to service charges dated back to 2017. The start of the hearing was delayed while the tribunal considered these new documents. Although Mr Beetson initially objected to the documents he agreed to their consideration by the tribunal as they revealed nothing that was new. The tribunal therefore agreed to include them in the documents they were considering.

### **The background**

5. The property which is the subject of this application is a 1 bedroom flat in a purpose built block of flats comprising 18 flats in total.
6. The Applicant requested an inspection of the property. The Tribunal determined not to inspect because it did not consider that an inspection was useful as it would not reveal the condition of the property prior to the works, nor would it have been proportionate to the issues in dispute.
7. The Applicant holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

### **The issues**

8. In the amended directions dated December 2022 the relevant issues for determination were identified as follows:
  - (i) The reasonableness of service charges for 2018 – 19 and 2019 – 20 relating to
    - a. Estate grounds maintenance
    - b. Estate maintenance and repair
    - c. Block caretaking
    - d. Estate caretaking (2019- 20 only)
    - e. Block lighting
    - f. Block maintenance and repair
    - g. Management costs

h. Insurance costs

- (ii) The reasonableness of service charges for works relating to replacement of electrical rising mains and communal lighting.
9. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

**Works relating to replacement of electrical rising mains and communal lighting system - £7512.71**

10. The relevant clause of the lease is contained in the Landlord's covenants at clause 6(3) (a) which requires that the Respondent shall.

Keep in good and substantial repair and condition (and subject as stated below whenever necessary rebuild reinstate renew and replace all work or damaged parts)

- (i) The Structure and the foundations of the Block and the roof thereof with its gutters and rainwater pipes and the Service Installations save those exclusively serving the flat
11. The Respondent argues that the works were necessary and therefore required by the lease, whereas the Applicant argues that the works were not necessary and therefore not payable under the lease.
12. The Tribunal notes that the Applicant does not raise any issues about the disputed charges being payable under the terms of the lease. Her focus is on the need for the works to be necessary.

**The Applicant's argument**

1. The Applicant's major concern was the major works which comprised the replacement of the Electrical Rising Main (ERM) and associated works. The Applicant asks the tribunal whether she is liable at all to pay the charges for the works and asks whether the works were necessary at all.
2. The Applicant considers that the consultation procedures were a formality. She considers that the reasons changed as she raised questions with the authority. She attempted to nominate a contractor but the person she found was reluctant to be nominated to do the work. She says this is because it would put at risk him doing future work.
3. She says that other leaseholders were sceptical about the works but they were reluctant to object to the work as they did not have the time or the

energy. She told the tribunal that she was taking this case on behalf of everyone who neither had the time nor energy to pursue the Respondent.

4. She believes the reasons for the works were made up by the Respondent and is positive that no one from Barnet Homes had been inside the intake cupboard/distribution boardroom. She notes that the Respondent had said that the estimated age of the existing distribution board was 50 plus years but that the building was only 40 years old.
5. She complains that no information was given about the useful lifespan of the existing cabling system. She believes that the lifespan of the cables should be 900 years. She says that she was told informally by experienced electrical contractors that the cables that were removed were widely regarded as the best cables available. She says that there appears to have been no regular testing of the cables so there was no evidence that there were problems with the provision of electricity to the property.
6. She also disputes that there was a need for a new intake cupboard to ensure adequate space for the installation of the new equipment. The existing cupboard she says was large enough.
7. She says there was no need to move the meter cupboards and the intake cupboard did not require replacing.
8. No fire alarms have been fitted despite this being promised.
9. The Applicant does not accept the argument that the communal lighting system required upgrading. She says that no residents complained about the previous lights but they complain about the new lights, the light levels, the price and their appearance.
10. She is sceptical as the lighting that was replaced was more than adequate and that the evidence for replacing it was either exaggerated or made up entirely. She says that before and after pictures speak for themselves.
11. The Applicant also says that there was no need for new Thorlux Prison lights. She considers that LED store lights with a very similar specification that cost £100 or £150 each with a seven-year warranty. The Applicant says that the Respondent refused to listen. The previous lights were perfectly adequate and rarely required works. The caretaker simply changed the bulbs when necessary. There is no evidence from the service charges that the new lights were more efficient. She argues that the reason the lights were changed is because the Respondent did not want to pay the caretaker to change bulbs anymore.

12. The Applicant had a report from an NIEC approved contractor which demonstrated that her domestic electrical installation was in good condition and safe for continuous use.
13. The Applicant has had no electricity since the major works were completed because she has refused to be connected to the new mains. She says that life since that date has been very stressful.

*The Respondent's argument*

14. The Respondent case is that the costs of the ERM and emergency lighting were reasonable and refers the Tribunal to the Respondent's repair obligations under the lease and the right of the Respondent to carry out works pursuant to clause 9(5) of the lease which are for the benefit of the lessee and other residents in the Block.
15. The Respondent agrees that the Applicant's flat is not connected to the new supply because the Applicant refused access to the Respondent. Access is required because the new installations are not automatically connectable to the installations in the Applicant's flat. The Respondent has requested access on multiple occasions, but the Applicant continues to refuse access. The Respondent has at all times remained willing to connect the Applicant's flat to the supply.
16. The Respondent relies on a report dated 11<sup>th</sup> January 2016 to demonstrate the reasonableness of its decision to carry out the works. The report was produced following an inspection of the electrical infrastructure within the Block. This indicated that the existing Rising Mains and Landlord supply cables were in poor condition and had passed their usable serviceable life expectancy of 25/30 years. It also found that the type of cable in use at the property was of a type now deemed by the Building Regulations to be beyond its safe working life. There was a risk that the insulation of the cables would break down causing a serious health and safety or fire risk.
17. The Respondent does not dispute that the Rising Mains and supply cables were still working, but its position is that they were at the end of their serviceable life and they could breakdown at any point, which would cause significant disruption to the residents of the block. It was therefore reasonable that the Electrical Rising Mains was replaced and that other works associated with the replacement were carried out.
18. The report also indicated that the communal and emergency lighting did not comply with current regulations.
19. The summary section of the report, at page 64 of the bundle gives a helpful indication of the risks that the Respondent considers were

presented by the electrical rising main installation and the landlord's lighting and power system.

20. What the summary sets out ( in abbreviated form ) is that

Cable Insulation is breaking down which gives rise to:

- Risk of Fire
- Risk of Electrical Shock
- Serious Power Failure
  
- Equipment is obsolete and past its useable life
- Electrical Rising Mains and Lighting are non-compliant with most current regulations
- General lighting does not meet Health and Safety criteria
- The service heads are in poor condition with insufficient earthing and neutral provision.

21. The Respondent also provided to the tribunal a non-intrusive site survey report dated November 2016. This report was of a non-intrusive survey of the electrical installation requirements of the block. The report recommended

22. A full consultation exercise was carried out by the Respondent as well as a presentation about the need for the work to residents on 19<sup>th</sup> June 2018. The Applicant did not attend the presentation. The slides from the presentation are included in the bundle at pages 92 – 115.

23. The Respondent included the Notice of Intention to carry out the disputed works, dated the 28<sup>th</sup> November 2016 and the Notice of Estimates dated 5<sup>th</sup> June 2018 in the bundle.

24. The Respondent instructed a surveyor Mr Alastair MacFarlane, who has been a consultant previous for Barnet Homes to prepare a report for the Tribunal as an independent expert on the needs for the work. He confirmed the need for the works and explained to the tribunal that the report that the Applicant received on the condition of the electrical installations in her property did nothing to reduce the need for the major works. The 999 figure that the Applicant relies on does not mean that the system will work for 999 years but that the electrical installation is in perfect condition.

25. Mr MacFarlane answered the questions of the Applicant fairly and courteously.

26. The Applicant does not believe that the author of the original report, Joe Garvey exists. If he did exist, she would have expected him to be in attendance at the hearing to give evidence. She had a lot of questions for him. She also points out that the photograph on the cover of the report is not the building that her property is in.
27. The Respondent assured the Applicant that Mr Garvey did exist.
28. The Applicant also told the tribunal that she wanted to nominate a contractor as part of the consultation process but that Barnet's intimidating behaviour prevented any contractor taking up the offer.

### **The tribunal's decision**

29. The tribunal determines that the amount payable in respect of the major works is £7,512.71.

### **Reasons for the tribunal's decision**

30. The Tribunal has carefully considered the evidence before it. It is persuaded by the Respondent's evidence, particularly the fact that the ERM had not been replaced since the construction of the block, and risks of ageing electrical installations, that the works were necessary and fell within the obligations under the lease.
31. The Applicant had very little to substantiate her argument. The report she produced related solely to the installations within her flat. The respondent did not dispute the contents of the report but argued that it was not relevant to the decision to replace the ERM and associated works.
32. There is no evidence to support the Applicant's argument that the associated works carried out were not necessary and were not carried out to a reasonable standard.
33. The Applicant has to realise that the question before the tribunal is not whether the Applicant considered the works to be necessary, or whether she would have decided to carry out the works, but whether the Respondent reasonably decided that the works were necessary. The tribunal agrees with the Respondent that it was reasonable for it to decide that the replacement of the ERM and the associated works were necessary.



## **Service charges demanded for service charge years 18 – 19 and 19 – 2020**

### *The Applicant's position*

34. The Applicant argues that the service charges, which total £555.10 for the year 2018 – 2019 and £594.60 for the service charge year 2019 – 2020 are not reasonable. Most of her argument is that she has no evidence that the work for which she was charged was actually carried out and /or that the charge demanded is the accurate charge for the service. . She argues that she has no liability to pay charges even if incurred is there is no evidence of the expense. She is not satisfied with work orders as she says they provide no evidence of costs incurred. She also argues that she is not liable to pay for expenses incurred due to the Respondent's neglect, zero care and zero standard of service.
35. She raises issues with the bulk rubbish charge, arguing that the problem would not exist if cameras were fitted as most of the residents have requested.
36. She agrees that there is regular cleaning and would pay for once a month visits plus monthly litter picking and five times annually grass cutting as she accepts that she see these happening. But she says she refuses to pay at the hourly rate demanded for the number of hours that it is claimed that the caretakers spend in the block because she does not consider that they do that much work, or that the level of service is too high and could be reduced by proper management.
37. She does not consider that she should pay at all for block lighting. She says that the leaseholders were promised that the new lights would be cost effective and as they are not she does not consider that they should ever be charged for block lighting. False promises of efficiency should be honoured. She says that there is no evidence of supplier reading and that what was enclosed in the bundle could have been typed by anyone.
38. She says that no money is payable for management costs. For here there is a zero standard of service and therefore zero liability to pay.
39. She notes that estate caretaking is only charged for in 2019/2020 and is highly sceptical that any work caretaking for the estate has ever taken place.
40. She says she will consider paying the insurance once she receives the Zurich Insurance invoice. She does not think that she should pay on the basis of simply being asked for the money. She says that she is entitled to see evidence that the figure is correct.

### *The Respondent's position.*

41. The Respondent says that the charges that the Applicant is challenging are made up of charges for costs incurred in relation to the Block and the Estate.
42. The Block costs are made up of charges for
  - (i) Caretaking
  - (ii) Block lighting
  - (iii) Block maintenance and repair
  - (iv) Insurance.
43. The Estate costs are made up of
  - (i) Grounds maintenance
  - (ii) Caretaking
  - (iii) estate maintenance and repair
44. The charges also include the Respondent's management costs.
45. Mr Sean Wilson who is the Leasehold Income Collection Manager with the Respondent gave evidence of the works carried out which made up the costs on which the service charges were demanded.
46. His statement (at page 780 of the bundle) explains how charges are calculated by the Respondent and describes the individual charges together with supporting documents to justify the charges. The Respondent notes that the management fee was the subject of a Tribunal challenge in 2014 when the charges were found to be reasonable and payable.
47. Mr Wilson also points out that the insurance contract is periodically tendered to ensure competition and best value. This will be done again in October 2023.
48. During the tribunal there was extensive discussions between the Applicant and Mr Wilson about the systems the Respondent uses, and the level of detailed documentation underpinning the charges raised.
49. The tribunal would like to thank Mr Wilson for his courteous and helpful responses to the Applicant. The tribunal was impressed by his extensive

knowledge of the Applicant's block and his ability to answer questions in a thoughtful and useful manner.

### **The tribunal's decision**

50. The tribunal determines that the amount payable in respect of routine service charges for the year 2018 – 2019 is £555.10 and for the service charge year 2019 – 2020 is £594.60.

### **Reasons for the tribunal's decision**

51. The tribunal considers that the evidence provided by the Respondent of the services provided and their costs is persuasive. The system in place for the Respondent to calculate charges to individual leaseholders is robust.
52. The Applicant is demanding a level of detail that is unrealistic and disproportionate and is likely not to exist in any useful form. Her approach appears to be that the Respondent must demonstrate to the last penny that the sums are reasonable and payable. That is not the approach of the tribunal. The Applicant must provide evidence that the charges demanded are not reasonable. She has failed to do this. Instead she asserts that they have provided insufficient information.
53. The tribunal has also considered the level of charges in the round and considers that they are reasonable. The charge for management is at the low end of the scale for management fees and the insurance charges are very reasonable. The other charges also fall within the normal spectrum for service charges. On the evidence before it, it appears to the tribunal that the estate and block are well run and charges are reasonable and proportionate.

### **Application under s.20C and refund of fees**

54. In the application form the Applicant applied for an order under section 20C of the 1985 Act. Having heard the submissions from the parties and taking into account the determinations above, the tribunal determines not to make an order.

**Name:** Judge H Carr

**Date:** 15<sup>th</sup> June 2023

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).