



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

Case reference : **LON/00AG/LSC/2022/0386**

Property : **Flat 6 Greencroft Gardens, London
NW63PG**

Applicant : **Michael James Lipton and Sirke Lysette
Lipton**

Respondents : **91-93 Greencroft Gardens Management Ltd**

Type of application : **Application made pursuant to s.27A
Landlord and Tenant Act 1985**

Tribunal : **Judge Shepherd
John Naylor MRICS FIRPM**

Date of Decision : **18th July 2023**

Decision

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1. In this case the Applicants, Michael James Lipton and Sirke Lysette Lipton (“The Applicants”) are challenging the payability of service charges being sought by the Respondents, 91-93 Greencroft Gardens Management Ltd (“The Respondents”).

2. The Applicants are the leaseholders of Flat 6, 91 Greencroft Gardens, London NW63PG (“The premises”). The premises are located in a building containing several flats. The freeholders of the building are the Respondents.
3. The Respondents invoiced the Applicants on 11th October 2021 for their share of the cost (£1577.12) of replacing window frames and glass of the top floor flats in the building. The premises is not located on the top floor. The Applicants challenge the payability of these sums on the basis that the Third Schedule of their lease and the other leases in the building demise the windows and frames to the leaseholders and that the Respondents have no right to recover the cost of works to demised parts of the building. The Respondents are debarred from defending the Application because they failed to comply with directions.
4. The relevant parts of the lease which are common throughout the building are the following:

The land retained by the Respondents is detailed in the Second Schedule and includes all those main structural parts of the building forming part of the building including the roofs foundations the external and load bearing walls and the joists upon which the floors are laid and external parts of the building thereof(but not the glass in the windows nor the plaster on the ceilings and walls or the screed on the floors of the flats)...

5. The land demised to the leaseholder is described in the Third Schedule as the following:

ALL THAT Flat... which shall be deemed to include the plaster on the ceiling and walls and screed on the floors the windows and window frames thereof (but not the external surfaces of such window frames)....

6. Under the seventh schedule the service charges permitted include : *The cost of complying with the landlord’s obligations set out in the fifth schedule...*
7. The landlord’s obligations under the fifth schedule include an obligation:

To inspect maintain repair redecorate and when necessary rebuild or renew:-

(a) The exterior of the building and all those parts of the retained premises secondly described in the Second Schedule;

(b) As appropriate all those parts of the retained premises first described in the Second Schedule (see para above).

Determination

8. It is clear that the responsibility for repair and replacement of window frames in individual flats lies with the leaseholder. The landlord retains the responsibility to repair and maintain the external surfaces of the window frames. The purpose of this is to allow the landlord to retain control over the external decoration of the window frames. The replacement of the frames and glass goes beyond this responsibility.

9. Accordingly, the Tribunal finds that the sums sought by the Respondents for the replacement of the window frames in the flats on the third floor of the building are not recoverable from the Applicants. The Applicants will need to be refunded with the sums they have paid over in this regard.

Judge Shepherd

18th July 2023