



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

Case Reference : **MAN/OODA/LSC/2022/0093**

Property : **Flat 1 232 Harehills Avenue Leeds LS8 4HX**

Applicant : **G & O Real Estate Ltd**

Representative : **Mr. Mark Beaumont**

Respondent : **Ramona Jade Williams**

Type of Application : **27A Landlord and Tenant Act 1985**

Tribunal Members : **Mr John Murray LLB
Ms. Dianne Latham MRICS**

Date of Decision : **23 August 2023**

ORDER

ORDER

The Tribunal makes the following orders for the service charges for the years under review will be as follows:

Service Charge Years 2017/2018

Service charges are not payable until a demand compliant with s21B Landlord and Tenant Act 1985 has been served upon the Applicant.

The Tribunal finds that overall the service charges are reasonable, save that management fees shall be reduced by 20%.

Service Charge Years 2018/2019

Service charges are not payable until a demand compliant with s21B Landlord and Tenant Act 1985 has been served upon the Applicant.

The Tribunal finds that overall the service charges are reasonable, save that management fees shall be reduced by 20%.

Service Charge Years 2019/2020

The Tribunal finds that overall the service charges are reasonable, save that management fees shall be reduced by 20%, and a reduction of £15.75 for the Respondent's contribution to the plastic mail boxes in the hallway.

Service Charge Years 2020/2021

Service charges are not payable until a demand compliant with s21B Landlord and Tenant Act 1985 has been served upon the Applicant.

The Tribunal finds that overall the service charges are reasonable, save that management fees shall be reduced by 20%.

Service Charge Years 2021/2022

Service charges are not payable until a demand compliant with s21B Landlord and Tenant Act 1985 has been served upon the Applicant.

The Tribunal finds that overall the service charges are reasonable, save that management fees shall be reduced by 20%.

Service Charge Years 2022/2023

The Tribunal finds that overall the service charges are reasonable, save that management fees shall be reduced by 20%.

Order under s20C Landlord and Tenant Act 1985

The Tribunal makes an order under s20C that the costs of these proceedings shall not be added to the service charges.

INTRODUCTION

1. The Applicant applied to the Tribunal to determine liability to pay and the reasonableness of service charges under s27A Landlord and Tenant Act 1985 and Schedule in respect of Flat 1, 232 Harehills Avenue, Leeds LS8 4HX ("the Property") for the service charge years 2017 to 2023.
2. The Respondent subsequently made an application for an order under s20C Landlord and Tenant Act 1985

THE PROCEEDINGS

3. Directions were made by a Legal Officer on 15 December 2022 for the parties to sequentially exchange documents, including a Schedule of disputed charges and witness statements in support of their respective cases, and the matter listed for determination on the papers alone, following an inspection listed to take place on Thursday 30th March 2023 at 10am.
4. The Applicant asked on the 29th March 2023 that the inspection be postponed owing to the property manager having contracted Covid. The Tribunal agreed to the postponement but convened to discuss the case, and took the view that further directions for disclosure were required, and that the matter should be determined by an in person hearing following the reconvened inspection.
5. An inspection and hearing took place on the 12 June 2023. At the hearing it was apparent that part of the Respondent's case was that she had not been provided with documentation in support of the service charge demands. Although not specifically referred to in her pleadings, this would clearly bring into question compliance with s21(b) of the Landlord and Tenant Act 1985 and whether the Respondent had been served with a summary of rights and obligations under that Act.
6. The Tribunal made further directions for the Applicant to produce a statement and supporting evidence to show compliance with s21(b) and to provide further details of the management and maintenance contracts

THE INSPECTION

7. The inspection took place on 12th June 2023 at 10.30am. 232 Harehills Avenue, Leeds LS8 4HX is a terraced house that has been converted into four flats. The Applicant was represented by Mr. Mark Holley of Blue Water Property; the Respondent attended in person.
8. Flat 1 is on the top floor of a converted Victorian semi-detached house in the Harehills area of Leeds. The interior was in poor condition, having clearly not been decorated or re-carpeted for many years, other than partial decoration and carpeting by the leaseholders themselves. The communal parts were on the scale expected in a domestic house. Plastic boxes had been fixed to the wall near the entrance door to place residents mail in but 2 had broken. The property had double glazing. The external UPVC door was damaged, and difficult to lock.
9. The flat roof at the rear over Flat 1 showed signs of deterioration with roof felt hanging off. Yellow paint had been put on the steps in an attempt to make them more visible in the dark in the absence of lighting. The meter cupboard door was missing. The privet hedge had previously been trimmed but had been allowed to grow very tall. The building had not been properly or adequately maintained for several years.
10. The internal area was very small. There was communal lighting on each floor, and a plug socket in the downstairs hall. There was a small basement containing the electricity switchboards for the property. Paintwork to the walls was poor.

THE LEASE

11. The lease was created on 21 August 2006 for a term of 999 years from 1 January 2002.
12. The clauses relevant to the application are:
13. Clause 2.3: The tenant covenants to pay to the Landlord the Service Charge in accordance with the Fourth Schedule.
14. Clause 2.11: The tenant covenants to pay all cost and expenses (including solicitors and surveyors fees) incurred by the Landlord for the purposes of and incidental to the preparation and service of a notice or proceedings under Sections 146 and 147 of the Law of Property Act 1925 notwithstanding that forfeiture is avoided otherwise than by relief granted by the Court and for the purpose of and incidental to the service of all notices relating to wants of repair condition or decoration of the Premises whether served during or after the expiration or sooner determination of the Term.

15. Clause 5: SUBJECT to the Tenant paying the Service Charge the Landlord covenants with the Tenant:-
16. Clause 5.1: To rebuild renew repair maintain decorate paint cleanse landscape and keep tidy the Common Parts and each and every part thereof and to pain (*sic*) or otherwise appropriate (*sic*) decorate the external parts of the Premises and any other premises on the Property let or intended to be let to tenants of the Apartments in each case as reasonably required and appropriate in the interests of good estate and property management.
17. Clause 5.5: To employ or retain the services of any employee agent consultant gardener contractor engineer or professional adviser that the Landlord may reasonably require to perform the Landlords obligations hereunder and/or the proper management of the Property.
18. Clause 5.8: To provide any additional service and make any other payment which the Landlord shall from time to time deem reasonably necessary for or incidental to the Landlords' obligations under this Clause or for or incidental to the proper care maintenance and good management of the Common Parts or the Property.
19. The FOURTH SCHEDULE ("the Service Charge")

1. In this Schedule:-

- 1.1 "the Expenditure" means the expenditure of the Landlord in complying with the Landlords obligations under Clause 5 of this Lease including any interest paid on any money borrowed for that purpose and reasonable provision for future expenditure on such items as call for intermittent expenditure
- 1.2 "the Tenants Proportion" shall mean one quarter of the Expenditure or such other proportion of the Expenditure as may be fair and reasonable in all the circumstances (including non-recovery of amounts due from the tenants of the other apartments) as the Landlord (of (*sic*) in the case of dispute the Surveyor) may from time to time determine
- 1.3 "the Surveyor" means any Chartered Surveyor or firm of Chartered Surveyors appointed by acting from time to time as mentioned in this Schedule
- 1.4 "the Account Year" means the annual period from time to time nominated by the Landlord for the purposes of this Schedule

2. Landlord shall cause proper books of account to be kept in respect of the Expenditure and as soon as convenient after the end of each Account Year shall prepare and submit to the Tenant a statement showing a summary of the Expenditure for such Account Year the Tenants Proportion and the calculation thereof and if required by the Tenant such statement shall be prepared by an Accountant falling within the definition of "a qualified accountant" for the purposes of the Housing Act 1985 and shall be accompanied by certificate that in the opinion of such accountant the statement is a fair summary of the Expenditure set out in a way that shows how the Tenants Proportion is calculated and is sufficiently supported by accounts receipts and other documents that have been produced to such accountant
3. If the Landlord shall require the Tenant shall in respect of any Account Year pay such provisional sum in respect of the Tenants Proportion for the relevant Account Year as the Landlord (or in the case of dispute the Surveyor) shall reasonably determine by equal quarterly payments on dates specified by the Landlord
4. On the final ascertainment of the Tenants Proportion for each Account Year then if the Tenants Proportion shall
 - 4.1 Exceed the provisional sum or sums paid by the Tenant in respect of the relevant Account Year the excess shall forthwith be paid to the Landlord on demand
 - 4.2 Be less than the provisional sum or sums paid by the Tenant in respect of the relevant Account Year the overpayment shall be credited to the Tenants account for the then current Account Year or if the Term shall have come to an end the Landlord shall forthwith repay the overpayment to the Tenant
- 5.1 The provisions of this Schedule shall continue to apply notwithstanding that the Term has come to an end but only in respect of the period to the end of the Term
- 5.2 If the Landlord shall decide to make provision for future spending in accordance with this Schedule the Landlord shall inform the Tenant of the items in respect of which provision has been made and on incurring expenditure in respect of any such item shall first apply the monies held in reserve in respect of that item
6. Every statement held by the Landlord in accordance with paragraph 2 of this Schedule shall be conclusive as to the information shown thereon
7. If and so often as the Landlord is requested to supply information under Schedule 19 of the Housing Act 1985 compliance with that request shall be

deemed to fulfil the duty of the Landlord hereunder to supply any information or account relating to the same period

THE LAW

20. The relevant legislation is contained in s27A and s20 C Landlord and Tenant Act 1985 which read as follows:

s27A Liability to payable service charges: jurisdiction.

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to—
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and .
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which—
 - (a) has been agreed or admitted by the tenant, .
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party, .
 - (c) has been the subject of determination by a court, or .
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
 - (a) in a particular manner, or
 - (b) on particular evidence,of any question which may be the subject of an application under subsection (1) or (3).
- (7) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of this section is in addition to any jurisdiction of a court in respect of the matter.

s20C Limitation of service charges: costs of proceedings.

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or leasehold valuation tribunal or the First-tier Tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
 - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to the county court;
 - (aa) in the case of proceedings before a residential property tribunal, to the appropriate tribunal;
 - (b) in the case of proceedings before the appropriate tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any appropriate tribunal;
 - (ba) in the case of proceedings before the First-tier Tribunal, to the tribunal;
 - (c) in the case of proceedings before the Upper Tribunal], to the tribunal;

- (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to the county court].
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

THE HEARING

21. At the hearing the Applicant was represented by of Mr. Andrew Beaumont of Counsel. Appearing as witnesses were representatives from Blue Property Management Company, being the Property Manager Mr. Mark Olley, and the Legal and Accounting Manager Ms. Catherine Bateman.
22. The Respondent represented herself. Also present at the hearing were the Respondent's mother Ms. Yvette Ottley, former leaseholder of Flat 1 (and her father) Mr. Ernest Williams, and Mr. Antony Colman, leaseholder of Flat 4.

SUBMISSIONS

THE APPLICANT

23. Mr Beaumont relied upon the Applicant's statements. The Applicant had filed a witness statement by Matthew Pennington, Legal and Sales Team Leader at Blue Property Management UK Ltd, managing agent for the Property dated 3rd January 2023. Mr Pennington had since left Blue Property Management. Further oral evidence was provided by Mr. Mark Olley. Ms. Catherine Bateman, who had signed a reply on behalf of the Applicant also gave oral evidence.
24. Mr. Beaumont explained that budgets were sent to leaseholders each year with a demand and calculation, showing how the charges were to be divided between each flat. The income and expenditure account was at page 63 of the bundle. He outlined the terms of the lease and the provisions for service charge payment.
25. Ms. Bateman said that all documents and demands were sent by email. Income and Expenditure accounts were also sent by email. She did not have any evidence as to what was sent out in 2017/18; there were no documents included in the Tribunal bundle. She had only been with Blue Property Management for a year, and couldn't say whether demands had been sent annually or not. Blue Property Management used the portal "Blocks Online", and only communicated by email.
26. The Respondent questioned her on this. The Respondent said that she had been pursued by debt collectors for the sums claimed on account since 2017, and indeed monies had been paid over on her behalf by her building society in 2017 and these were for budgeted, not due accounts. They had never been reconciled in accordance with the lease. Ms. Bateman confirmed to the Tribunal that the

Account was not reconciled until December of 2022 when actual costs were reconciled with the budgeted accounts, and because the budgeted repairs had not been carried out, the sums due were less.

27. The Respondent was concerned because she had never been told of this credit or shown the income and expenditure account. She had not been told what had actually been spent; she would receive demands but these were never reconciled and consequently she had been sued for over £11,000 in the County Court, which was then paid (in error) by her mortgage provider and these budgeted accounts were never reconciled.
28. Ms Bateman accepted that Blue Property Management did not reconcile accounts until after the court proceedings were commenced in 2022.
29. Mr. Olley in his evidence confessed to feeling frustrated as a property manager; he simply had no funds to manage the building. Blue Property Management had only been able to carry out only the minimal cleaning, cutting hedges back etc. He accepted that the roof and fire safety works would need to be the subject of a s20 consultation and that this had not been started.
30. He said that the lease allowed the service charges sought on account to be rolled over. He said that it had been a challenge to recover monies. When asked if he had tried to have an active conversation with leaseholders, he said that he did speak with leaseholder Mr. Colman, but they had not been able to reach agreement.
31. He said that he was responsible for the maintenance team who spent three hours a month on the Property.
32. He was aware that the communal electricity used by the cleaners and for lighting came from Flat 1; he said it would cost more to change the arrangement by installing a new meter than several years' worth of electricity that had been used, but he acknowledged that it needed doing.
33. He accepted that there was a serious health and safety/fire regulation breach on account of the actions under the Fire Risk Assessment being outstanding. The fire alarm system is not working, and an emergency lighting system needed. There was no plan to carry out these works, but he accepted that they should be carried out by the Freeholder who should worry about funding the works afterwards.

THE RESPONDENT

34. The Respondent had filed a witness statement dated 31 January 2023 which also served as her statement of case.
35. In essence she stated that she considered that the service charges were not payable because she had not been supplied with detailed breakdowns of service

charges despite asking for the same over several years. Actual service charges were always much less than budgeted charges and had not been reconciled until 2022 - after the proceedings had started.

36. The Respondent had never paid any service charge; she stated that £12,558.26 had been "received from me", and credited to her account. She accepted in questioning that that statement was not actually true – the charges had been paid by her mortgage provider directly to the Applicant. She said she was reluctantly withholding payment because she had not been provided with information. Mr. Beaumont said that she had no interest in the monies credited to the account because her mortgage provider had paid them back to her following a complaint.
37. At paragraph 24 of the statement, the Respondent stated that she had withheld payment of service charges as the Applicant failed to carry out the following:
 - i. Attend and upkeep the property; the property is in an extremely poor state of repair and continues to deteriorate.
 - ii. To charge reasonable amounts proportionate to the small size of the property.
 - iii. To provide copies of detailed accounts, any income and expenditure records in relation to the periods as soon as convenient after the end of each Account Year, to the Leaseholders (including me) so that they could be inspected as to whether they were fair and reasonable pursuant to clause two in the fourth schedule of the Lease.
 - iv. Provide sufficient supporting documents of all invoices, accounts receipts and other documents in relation to the statement charges, despite numerous requests from the tenants.
 - v. Within a reasonable timeframe following an accounting year, provide a copy of the certificates from a qualified accountant of audited and certified accounts to prove that any statements are a fair summary of the Expenditure.
 - vi. Breakdown how the service charges, costs and expenses have been calculated for the property as a whole prior to 10th January 2022.
 - vii. Demonstrate the equal quarterly split between all tenants allowing the tenants to adequately assess whether the expenditure and costs incurred are fair and reasonable and how the tenant's proportion has been calculated.
 - viii. On an annual basis, show whether provisional budgeted sums for the annual accounts have been exceeded or are less than expected, and how these remaining funds have been recovered or distributed (clause 4 of the Lease)
 - ix. Meet with the tenants to resolve the matter, despite our willingness to do so.

38. In her oral testimony, the Respondent stated that she was awaiting the outcome of her neighbour's Tribunal cases and had discovered that his management charges had been reduced to £100 per year due to a lack of consultation over the Blue Property Management contract. Her charges were not similarly reviewed to take that decision into account, so she still was unsure about what she owed.
39. She did not accept that the cleaning and gardening that were the subject of generic invoices were actually carried out. Her tenant had only seen people there twice, and she saw no signing in sheet or similar records to confirm it had been carried out nor that anyone was managing, or taking ownership of the tasks. She did not dispute the Fire Risk Assessments and Health and Safety work had been done.
40. The Respondent questioned if the building was safe; it needed to have a fire alarm fitted. Mr. Olley agreed that a fire alarm needed to be installed,
41. The Respondent questioned why it had taken two and a half hours to "fit a letterbox"; these were two plastic boxes fitted to the wall in the hallway, one of which was broken. Mr. Olley agreed the time recorded for the task seemed excessive.
42. The Respondent questioned Mr. Olley as to how he managed what the gardeners and cleaners did. He stated that that he would receive photos from the caretaker.
43. The Respondent took exception to the management fees of £1175 which she considered excessive.

THE APPLICANT'S REPLY

44. The Applicant filed a reply to the Respondent's witness statement by Catherine Bateman, Legal and Accounting Manager of Blue Property Management UK Limited dated 21 February 2023 which went into a great deal of detail about how the Respondent would have received documentation generated by a system, or would be available on a portal. She was however unable to answer where demands, with statutory information, had been sent to, particularly as she had not worked for the Applicant for much of the relevant periods.

CLOSING SUBMISSIONS

45. In his closing submissions Mr. Beaumont confirmed that the Budget every year exceeded annual spend, as it included maintenance items which were not actually carried out. It was reasonable to roll the monies over because the works would still be required.
46. He asked that the Tribunal made a determination for the future year 2022 to 23, as to what would be a reasonable amount to seek for service charges for each year.

ADDITIONAL SUBMISSIONS AND EVIDENCE

47. Following the hearing the Applicant filed an additional bundle with a witness statement by Catherine Bateman dated 12th July 2023 and copies of service charge budgets with summaries of rights and obligations dated 20th September 2016, 18th July 2017, 13th November 2018, 28th November 2019 , 2nd July 2020, 28th June 2021, and 5th July 2022.
48. M. Bateman stated that the demands as required by s21b Landlord and Tenant Act 1985 had been sent to the Respondent at addresses as shown on the statements for the years 2016 to 2019, but for the years 2020 to 2023, the managing agents had switched to a new system, and the demands were sent to an email address (in the Respondent's case this was ramonalee84@gmail.com) - unless a leaseholder requested otherwise.
49. The Applicant produced an agreement dated 1 January 2016 between G and O Real Estate Limited and Blue Property Management UK Limited. In her statement, Mr. Bateman stated that no specific management fee structure had been agreed but the fees charged for all items of work were reasonable.
50. Ms. Bateman stated that further costs could be sought for legal costs due to clause 2.11 which enabled solicitors and surveyors fees for the purposes of and incidental to the preparation and service of a notice or proceedings under sections 146 and 147 of the Law of Property Act 1925 to be added to the service charge. The Respondent was obliged to cover the costs and expenses of the Applicant in the proceedings to date as the proceedings were undertaken or the purposes of the eventual service of a notice under sections 146 and 147 of the Law of Property Act 1925. The Applicant sought costs totaling £5192.79. The proceedings were necessary because the Respondent objected to the charges.
51. The Respondent filed a statement in response dated 27th July 2023.
52. She confirmed her email address stated in paragraph 2 of Ms. Bateman's statement was correct.
53. She pointed out that the demands supplied in the Applicant's evidence were all "editable word documents" and did not prove service as they were not time or date stamped.
54. She said that she did not receive the letters dated 20th September 2016, 18th July 2017, 13th November 2018. The first two contained her address at the Property; the latter was addressed to 19 Porthcawl Green Tattenhall Milton Keynes.
55. She said that did receive the letter dated 28th November 2019. This was sent to 16 Langport Crescent, Oakhill Milton Keynes

56. She did not say whether she had received the demands for 2nd July 2020 and 28th June 2021. These were sent to 16 Langport Crescent, Oakhill Milton Keynes
57. She stated that she did receive the "invoice" dated 5th July 2022.
58. The Respondent set out in her evidence in some detail letters and emails she had received which were usually relating to recovery of arrears.

THE DETERMINATION

Service Charges S27A

59. The Tribunal is asked to determine whether the service charges for the years 2016 – 2022 are payable and reasonable, under s19 Landlord and Tenant Act 1985, and whether the service charges sought on account for the service charge year 2022/2023 are reasonable.
60. It was clear to the Tribunal that the Applicant had not communicated well with leaseholders at the Property, and this had led to confusion of what was due, which in turn resulted in the Respondent refusing to pay her service charge, frustrated by the lack of information she was provided. By the Applicant's admission, accounts had not been reconciled for several years, leading the Respondent to believe she was being repeatedly charged for works never carried out. Indeed, when her Building Society paid an earlier debt, this included costs for budgeted services that were never carried out.
61. As well as poor communication there has been very little, if any, forward planning and effective management of the property, resulting in it not being compliant with fire safety, and showing signs of serious deterioration. This has become a vicious circle of mistrust between the parties, with the leaseholders refusing to pay, and the managing agents using debt collection and threats of court action rather than management and communication.
62. To determine if the service charges are payable, the Tribunal must be satisfied that a summary of rights and obligations of tenants was served with the demand for service charges; a tenant is entitled to withhold service charges in the absence of such a demand being served, and where a tenant does so, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.(s21(b)(3) and (4)).
63. Having considered the further submissions and evidence filed by the parties, the Tribunal prefers the evidence of the Respondent to the Applicant. The Applicant was unable to provide any certificates of service to evidence where the documents were sent to (or why they were sent to the various addresses) and the provider of the evidence Ms. Bateman was not involved with the Property until the last year. Ms. Bateman states that since 2020 the demands are sent by email, unless

leaseholders object. This is not a valid method of service for a statutory document, and there is no provision in the lease that enables it.

64. The Tribunal preferred the Respondent's evidence of what documents she had and had not received as she gave a comprehensive list, whether it helped her case or not.
65. On the evidence before it, and on the balance of probabilities, the Tribunal finds as facts the following:
 - (a) that the Respondent did not receive the s21(b) notices dated 20th September 2016, 18th July 2017, 13th November 2018
 - (b) that the Respondent did receive (on her own admission) the s21(b) notice dated 28th November 2019.
 - (c) that the Respondent did not receive the s21(b) notices dated 2nd July 2020 and 28th June 2021; she made no reference to them, but they were sent by email which was not a valid method of service.
 - (d) that the Respondent did receive (on her own admission) the s21(b) notice dated 5th July 2022.
66. As a consequence of this finding, the Tribunal finds the service charges for the years 2016/17, 2017/18, 2018/19, 2020/21 and 2021/22 are not payable. This is of course a situation that can be rectified retrospectively if the Applicant were to serve the correct documentation now, then the service charges would be payable, subject to being reasonable.
67. The Respondent was served with the statutory demands for the service charge years 2019/20 and 2022/23.
68. The Tribunal finds that the service charges are generally reasonable, with the exception of a charge on 3 June 2020 for 2.5 hours to fix the plastic boxes to the wall in the hallway. This charge should be reduced to 1 hour labour reducing service charges for 2020 by £15.75 being 25% of the £63 reduction.
69. The management fees of £1175 per annum which equates to £81.60 per month plus VAT for four flats. The Tribunal determined that there is little management being done, other than insurance, obtaining reports that are presumably ignored, arranging three hours of cleaning a month, a half hour gardening and grounds maintenance per month and the production of invoices and debt collection letters.
70. There has been no long term (or even medium term) plan, no reconciliation of accounts over a long period, and little health and safety compliance. Leaseholders have had to carry out their own works and the Applicant appears to prefer systems to conversations.

71. The failure to carry out fire safety works despite the national awareness of the Grenfell fire in this property is a very serious failure in management. Whilst the property is not an HMO, it is certainly a small property inhabited by a number of people not known to each other. Fire Risk Assessments have been charged for, yet the Applicant accepts that the Property does not even have a fire alarm.
72. Having considered the evidence, the Tribunal would reduce management charges by 20% for the years under review to reflect this failure in management.
73. The Tribunal is not asked to make a determination as to the administration charges added to the Respondent's account. Had it been asked to do so it would deny them because they are largely not payable on account of s21(b).

S20C Order

74. The Respondent has been partially successful in defending this case. Whilst that may appear a technical success, the reality of the situation is that if the Applicant's management company had put as much effort into their communications in relation to their accounting method/answering queries, and the management of their service, as they did to their debt chasing methods, the matter might have been resolved without the need for legal action.
75. The Tribunal orders that the costs incurred in connection with these proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Respondent.

**Tribunal Judge
John Murray
23 August 2023**