



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

Case Reference : **BIR/00CN/LAC/2023/0002**

Property : **Apartments 42 & 54, 50 George Street,
Birmingham, B3 1PP**

Applicant : **Olukayode Kenneth Ogunkoya**

Representative : **None**

Respondents : **David Wison Homes Limited (1)
First Port Property Services Limited (2)**

Representative : **Mr David Mold of Counsel instructed by
J.B. Leitch Solicitors**

Type of Application : **Determination of reasonableness of and
liability to pay Administration Charges
pursuant to Schedule 11 para 5 Commonhold
and Leasehold Reform Act 2002 (1)**

**Limitation of the landlord's costs in the
proceedings. Section 20C Landlord & Tenant
Act 1985 & Para 5A Schedule 11 Commonhold
& Leasehold Reform Act 2002 (2)**

Tribunal: **Tribunal Judge P. J. Ellis**

Date of Hearing : **21 November 2023**

Date of Decision : **14 December 2023**

DECISION

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1. These proceedings are concerned with administration charges imposed by the second Respondent on the applicant who is the leaseholder of apartments 42 & 54, 50 George St Birmingham (the Apartments). The administration charges are substantially, charges incurred by either the second Respondent or solicitors instructed by them to recover outstanding service charges. The dispute arises as the Applicant contends the administration charges are not payable because service charges were not overdue justifying the imposition of a charge or that they are not reasonable in any event. There is no dispute over liability for service charges, only whether they were overdue.
2. The matter was heard over video platform on 21 November 2023. The Applicant Mr Ogunkoya was not represented. The Respondents were represented by Mr David Mold of Counsel instructed by J.B.Leitch, Solicitors. I determined this case sitting alone. The property was not inspected before the hearing.
3. The subject administration charges were incurred between 2020 and 2023. The Applicant has now sold his interest in the apartments.
4. The application was issued on 28 April 2023. Directions were issued on 23 June 2023. Each party prepared a schedule of the items in dispute. The Applicant's schedule and accompanying documents were directed to stand as his statement of case. The Respondents were directed to file their response which comprised a Statement of Case and a schedule of answers to the items of claim.
5. The application was issued in standard form against the first named Respondent, but the second Respondent was named in the application as a Respondent to the S2oC application. The second Respondent is named in the lease as the lessor's Manager. The first Respondent applied to strike out the case against it and for an order striking out the claim generally as the claim was against the incorrect party. It relied on the provisions of the lease by which the Applicant covenanted with the Manager to observe and perform the terms of the lease. The Manager was not named as respondent to the claim relating to the administration charges.
6. However, the application was not pursued at the hearing and the second Respondent was added as a party pursuant to rule 10(1) Tribunal Procedure

(First-tier) (Property Chamber) Rules 2013. The matter proceeded substantially between the Applicant and the Second Respondent which was the reality of the service charge account giving rise to the disputed claims.

7. The Apartments were not inspected as there was no dispute that they were owned by the Applicant who was responsible for payment of service and administration charges. References to the Respondent hereafter mean the second Respondent.

The Lease

8. The Lease for apartment 54 was produced. There was no dispute that the lease of apartment 42 was in substantially identical terms. The lease was dated 12 May 2006. The parties were David Wilson Homes Limited, the Lessor, Peverel OM Limited, the Manager, (the Respondent) and the Applicant. Peverel OM Limited changed its name to First Port Property Services Limited. The term of the leases was 129 years with effect from 4 March 2004 at a peppercorn rent. The Applicant disposed of his interest in both properties in 2022.
9. The Respondent relied on the whole of the lease but asserted the terms of the lease of particular relevance to this matter are.

(i) *The Lessee covenants with the Manager to observe and perform the obligations on the part of the Lessee set out within Parts I and II of the Eighth Schedule (Clause 4.2).*

(ii) *The Lessee covenants to pay interest at 4% above Base Rate where applicable (Part I, Paragraph 3 of the Eighth Schedule).*

(iii) *The Lessee covenants to pay the Lessee's Proportion without deduction (Part I, Paragraph 2 of the Eighth Schedule).*

(iv) *The Lessee's Proportion is the proportion of the Maintenance Expenses in line with the Seventh Schedule (Clause 1) and Maintenance Expenses are those set out in the Sixth Schedule (Clause 1).*

(v) *Maintenance Expenses include the*

(a) *"costs of enforcing or attempting to enforce the observance of covenants on the part of any lessee of the Dwellings" (Part C, Paragraph 8 of the Sixth Schedule),*

(b) *"the reasonable and proper fees of the Manager from time to time as to its general management of the Estate" (Part C, Paragraph 12 of the Sixth Schedule) and*

(c) *"any legal or other costs reasonably and properly incurred by the Manager and not otherwise recovered in taking or defending proceedings... arising out of any lease of the Dwellings or any claim by or against any lessee..." (Part C, Paragraph 15.3 of the Sixth Schedule).*

(vi) The Lessee covenants to pay and discharge all rates, taxes, assessments, charges, duties and other outgoings whatsoever, assessed, charged or payable in respect of the Properties or by the tenant/owner/occupier thereof (Part I, Paragraph 7 of the Eighth Schedule).

10. There was no dispute over the relevant terms of the lease. The Applicant did not refer me to any other provisions.

Administration Charges

11. Part 1 of Schedule 11 Commonhold and Leasehold Reform Act 2002 (the CLRA) defines administration charges. It provides at paragraph 1:

Meaning of “administration charge”

1(1) In this Part of this Schedule “administration charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—

(a) for or in connection with the grant of approvals under his lease, or applications for such approvals,

(b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,

(c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or

(d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule “variable administration charge” means an administration charge payable by a tenant which is neither—

(a) specified in his lease, nor

(b) calculated in accordance with a formula specified in his lease.

Paragraph 2 provides that *a variable administration charge is payable only to the extent that the amount of the charge is reasonable.*

The Jurisdiction of the Tribunal

12. This application was issued on a standard application form by which the Tribunal is asked to make a determination as to liability to pay an

administration charge or for the variation of a fixed administration charge. The jurisdiction to determine administration charges comes from paragraph 5(1) of Schedule 11 which provides that:

“an application made be made to the tribunal for a determination whether an administration 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 4 (e) the manner in which it is payable”.

13. The Tribunal’s jurisdiction under s27A Landlord and Tenant Act 1985 has not been invoked although it is necessary to determine whether or not other than in connection with deciding whether or not the payment of service charges was overdue in order to decide whether an administration charge is payable.

14. The Applicant also asks the Tribunal to decide whether or not the costs of these proceedings should be ignored for the purpose of deciding service charges under s20C of the 1985 Act which provides:

(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 a leasehold valuation tribunal;

(b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation 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.'.

In any event the Applicant did not challenge the service charges themselves.

15. Paragraph 5(4) of Schedule 11 provides that no application under subparagraph 5(1) 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.

16. By s3(1) Courts Tribunals and Enforcement Act 2007 the First-tier Tribunal "Is established for the purpose of exercising the functions conferred on it under or by virtue of this Act or any other Act".

17. This Tribunal does not have the power to deal with claims of interest, ground rent or damages.

The Parties Submissions

The Applicant

18. The Applicant's case was comprised of a schedule of claims for payment presented by the Respondent with his denial of liability seriatim. Substantially, the Applicant's case was that the Respondent, First Port had failed to keep adequate accounts thereby causing an apparent failure on his part to pay service charges as when they fell due. He therefore denied he was liable for any charges arising from the pursuit of the alleged arrears or non-payments.

19. In a short statement served with the schedule and at the hearing the Applicant contended payments of service charges were made by instalments. His right to do so was contained in a Welcome Pack provided on acquisition of the apartments. He asserted the Respondent had not properly accounted for the instalments. The Applicant served a number of documents as explanations for his scheduled assertions. Some were short statements of his position; others were third party documents being service charge statements or correspondence from the Respondent's solicitors.

20. His schedule of claim is attached as Appendix A.

The Respondent

21. Mr Mold in his skeleton argument and in his submissions asserted the jurisdiction of the Tribunal excluded determination of claims relating to service charges, interest, ground rent and damages. The Tribunal should disregard any claims which were not administration charges.
22. The Respondent's solicitors had prepared a schedule answering the Applicant's allegations. It is annexed to this Decision as Appendix B.
23. In addition to the argument of lack of jurisdiction Mr Mold relied on evidence of statements of account prepared by the second respondent which showed payments made by the Applicant and the shortfall arising from making insufficient instalment payments to discharge service charge accounts as they arose.
24. The Applicant had a record of delayed payment resulting in serving persistent demands for payments. The Respondent's bundle included statements of account maintained by the Respondent for both Apartments. The accounts describe payments made and charges raised for both Apartments from November 2020 in the case of 42 and from September 2020 in the case of 54. The Respondent's practice in chasing arrears was to issue a reminder which included notice of an intention to add an administration charge if payment was not forthcoming. Upon failure to pay, a further demand was issued with an administration charge which was then added to the account. The statement of accounts for both Apartments demonstrates the accrual of arrears and the addition of service charges as the debt is pursued. In both cases the accounts showed arrears at the date the account commenced. They also show the liability for ground rents.
25. On occasions it was necessary to instruct solicitors to secure outstanding payments resulting in legal fees. Moreover, on one occasion county court proceedings were issued resulting in a judgment for outstanding charges. The Applicant had sought to set aside the judgment, but his application was refused by the court thereby incurring further legal charges.
26. The Respondent produced correspondence, statements of evidence and orders of the court in connection with both the claim and the refusal to set aside the judgment. The proceedings were issued in August 2021 for the debt due at the time including interest. After issue of proceedings the Applicant made two payments in total £484.90 to reduce but not discharge the debt. Judgment was entered on 22 November 2021 for £172.70 and contractual interest of £1.53. Costs were assessed at £1766.00. Mr Mold asserted that all claims arising

before the issue of the county court proceedings were determined by those proceedings and the Tribunal has no jurisdiction to reopen the dispute.

27. After the conclusion of the court proceedings the Applicant continued to pay by instalments and allowed arrears to accrue. The Applicant had not properly understood the meaning and effect of letters sent by the Respondent which were statements of the debt due at the date of the statements for both 42 and 54. The statements were produced together with consequential correspondence notifying the Applicant that failure to pay would result in an administration charge, the risk of possible further action and more costs. Mr Mold showed that the accounts showed arrears accrued either as a result of non-payment of service charge or ground rent. He contended that the Applicant's challenge was challenging service charges which was not the subject of these proceedings. He identified further items of claim which were outside the jurisdiction of the Tribunal.

Decision

28. This case is concerned with the payability of administration charges only. Any attempt to recalculate the service charge account is outside these proceedings. Similarly, as an operation of law, the Tribunal has no jurisdiction to determine liability for interest, ground rent or damages claims. A substantial number of the Applicant's claims are not the subject of these proceedings.

29. Both sides served schedules setting out their respective cases in support of each item of claim. Unfortunately, the schedules were not given item numbers. It was necessary to add numbers to their schedules in order to identify my decision on each of the Applicant's claims. Also, the Respondent's schedule did not match each of the applicant's itemised claims. Consequently, not all the respective corresponding items have the same numbers.

30. Mr Mold identified a large number of such items in his skeleton argument. After hearing the respective submissions, he contended further items could be excluded for the same reasons. A further Schedule is attached as appendix C being my determination of those items which are excluded from this Tribunal's jurisdiction leaving the items which are properly identified as administration charges. Item numbers in Schedule C column 1 are those used by the Applicant. As the Respondent's Schedule did not use the same numbering scheme column 4 indicates the corresponding item number in the Respondent's schedule.

31. The administration charges accrued on the accounts of both apartments. I am satisfied the Applicant's chaotic approach to payment allowed the service charge accounts for both apartments to accrue arrears. Payment by instalments was tolerated but the risk for the Applicant and the eventual outcome was that

arrears accrued as the instalments did not discharge the debts. The lease entitles the landlord to impose charges both of its own and its legal advisers if it is necessary to pursue arrears as well as to add an interest charge.

32. In so far as those items of administration charge are concerned, I am satisfied they are reasonable and payable. The statements of account show persistent arrears and failure to pay the full amount of service charge due even when instalments were made in part payment. The Applicant failed to understand some of the documents he received from the Respondent. He referred to statements of the service charge account believing them to be invoices. This misunderstanding created a belief that he was being over charged entitling him to a refund. He disputed debt letters without good grounds.
33. The method of pursuing arrears was reasonable. A letter drawing attention to the debt including a notice of risk of an administration charge was reasonable. The amounts claimed were not excessive.
34. In column 9 of Schedule C are the items of administration charge which I have extrapolated from the parties' submissions. The sum payable by way of administration charges as appears from Appendix C is £732.00.
35. As far as all other items are concerned, they fall outside the jurisdiction of the Tribunal. The charge added to the mortgage by the Applicant's Mortgagee arises after the proceedings in the county court. Item 20 is a claim for ground rent. Item 13 is a claim for damages and repayment of other sums other than administration charges. Items 2 & 25 are claims for interest. All other charges are in effect disputes over the payability of service charges.

Costs

36. The applicant has applied for an order that the costs of this application should not 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 under s20C of the 1985 Act. Considering my decision that the administration charges are reasonable and payable I refuse such an order. There is a similar application under paragraph 5A of Schedule 11 CLRA which is also refused.

Appeal

37. If either party is dissatisfied with this decision, they may apply to this Tribunal for permission to appeal to the Upper Tribunal (Lands Chamber). Any such application must be received within 28 days after these written reasons have

been sent to the parties and must state the grounds on which they intend to rely in the appeal.

Tribunal Judge Peter Ellis

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Schedule A

LE PAYEMENTS 42 x 34, 3045000€ MARCH, 23 11T

Date of demand	Type of Demand		Evidence Document	Comments
	Administration/Others	Legal		
1 September 2022	£31.95		No 2	This is a Credit of £31.95 paid / credited to the new owner of this property instead of my personal bank account
19 Nov 2020	£8.13		No 2b	This is interest Charged. Please note that the Evidence containing this information was not included in the initial paperwork submitted. For this reason, I call this "Evidence Document No 2b. FirstPort cannot bill me wrongly and expect me to pay interest on inaccurate record.
27 Nov 2020	£60.00		No 2b	
1 Sept 2020	£168.41		No 2b	According to FirstPort, this Charge is for "Service Charge" period 01/09/20 – 28/02/2021. This is absolutely incorrect. Evidence Document No 9 clearly show my record of payment totalling £980 for this period. Because the amount of £168.41 was added to my bill, may I please ask this Tribunal to oblige FirstPort to refund this money to me.
17 January 2022		£174.23	No 2b	What is my "offence" that I am compelled to pay £174.23? I like

				to please request that this money be refunded to me.
15 February 2022	£70.00		No 2b	There is no reason for FirstPort to charge me £70 going by my record of payment on this date. Evidence Document No 7 (EDN) clearly show the record of my payments. As at 10/02/2022, I have fully paid my Service Charge bill of £968.90
30 August 2022	£323.37		No 2	This amount is for the money I was compelled to pay by FirstPort on the day of Completion of sale, insisting to my Solicitor it was a condition to be met for completion to take place. Evidence Document No 2 is proof of my payment for the period 01/03/22 – 31/08/22 totalling £980.16. Evidence Document No7 also show the payment records for the period that preceded this period. I would please request that FirstPort pay back this money.
26 January 2022	£595.87		No 3	This is incorrect Service Charge demand. As at this day, the balance on this account was £242 and not £837.87 as demanded by FirstPort. The difference between

<p>24 May 2022</p>	<p>£397.78</p>	<p>No 4</p>	<p>these figures is £595.87 (to be repaid by FirstPort). EDN 3 shows my payment record.</p> <p>According to FirstPort, this demand is for Service Charge. There is absolutely nothing correct about this figure and the demand.</p> <p>Please note that JB Leitch did not indicate the period this demand belongs to in their covering letter of 24 May 2022.</p> <p>In the "BREAKDOWN OF SUMS DUE", the date of 01/03/2022 is aligned to this Service Charge demand. This makes this demand wrong the more for the following reasons:</p> <p>Assuming FirstPort claim this demand belong to the previous payment period, EDN 4 clearly show that I have fully made payment for this period as at 29 December 2021.</p> <p>Assuming FirstPort says this demand relates to the period beginning 01/03/2022, the figure of £397.78 would still be wrong, because the correct amount to pay for this period is £956.54. I</p>
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24 May 2022	£70.00			submit to this Tribunal that this is inaccurate billing and claim demanded by FirstPort through their solicitors. For these reasons, I like to please request that this Tribunal oblige FirstPort to refund this money to me because it was debited to my account.
24 May 2022	£70.00		No 4	I cannot explain the rationale behind FirstPort charging me £70 Administration Charge because, as at 24 May 2022, I have already paid my instalments for the month of March and April (EDN 4) for the period which began in March 2022. I also want this Tribunal to note that I wrote formally to FirstPort to say my payment will be made in instalment. I would like this Tribunal to oblige FirstPort to payback this money to me.
24 May 2022	£70.00		No 4	As stated above, I do not understand the rationale behind FirstPort referring my account to their solicitor in view of my Record of payments as shown in

24 May 2022	£252.00	No 4	<p>EDN 4. I am please asking this money paid back to me.</p> <p>I am please asking this money paid back to me.</p>
2023	£1,142.00	No 4	<p>The breakdown of this figure is itemised in EDN 4. As stated in my Evidence, As at 26th June 2022, after I have fully paid my Service Charge, Jade Moran from JB Leitch solicitors wrote to my solicitor in response to a request for the Management Pack for Apartment 42 saying "Please note our client will not release the Management Pack whilst outstanding arrears remain due . . . £785.78".</p> <p>I honestly did not have a dine outstanding on my account as at the 26 June 2022 when JB sent this email.</p> <p>FirstPort refused to release the Management Pack until I had to make official complaint. FirstPort held back the Management Pack for more than two months and the sale could not proceed for this period.</p> <p>I like to please request that this Tribunal oblige FirstPort to pay</p>

					me for the avoidable expenses I incurred during this time.
22 February 2022	£100.05		No 5		My record of payment for the 01/09/21 – 28/02/22 shows I paid in total £956.54. This is the total payment for this period. For this reason, I do not owe £100.05 for Service Charge. I am please requesting this Tribunal Oblige FirstPort to pay back this money because they have added it to my account.
22 February 2022	£60.00		No 5		As stated above, my payment was up to date for this period (EDN 5) and there is no justification for charging me Administration charge. I am please requesting that this be paid back.
15 February 2022	£483.37	£70.00	No 6		There is no truth whatsoever that my account balance was £483.37 in debt on 15 February 2022 for the period 01/09/21 – 28/02/22. EDN 6 clearly show that the payment for this period was fully paid on 10 February 2022. I am please requesting that this Tribunal oblige FirstPort to refund this money to me. Also, the £70.00 for Administration Charge. It is

				FirstPort record that not up to date and not my record of payment.
26 January 2022	£837.87		No 7	<p>FirstPort letter dated 26/01/22 says there is a balance brought forward £837.87. My accompanying note for EDN 7 explains why there is no rationale for this demand.</p> <p>My payment records also prove that this is an inaccurate billing. For these reasons, May I please request that this Tribunal oblige FirstPort to pay back this money especially because they have never written to me to say they have corrected this error (meaning it has been added to my account).</p>
29 March 2022	£70.00		No 8	<p>Administration Fee. EDN 8 fully explained why I should never be charged this fee.</p>
29 March 2022	£130.87		No 8	<p>This figure is imaginary as explained in EDN 8 paragraphs 1-3.</p>
29 March 2022	£112.50		No 8	<p>This demand by FirstPort is for Ground Rent. Again there is no reason whatsoever to add this bill to my account and demand that I</p>

				<p>make this payment BECAUSE I have paid this bill in full as at 01/03/22 as evidenced in the payment history provided in EDN 9 (Period 1 March 2022 – 31 August 2022).</p>
<p>29 March 2022</p>	<p>£240.00</p>		<p>No 8</p>	<p>This £240 comes about because, as at 29th March 2022, FirstPort claimed that the balance of my Service Charge account was £965.16. This is not true because, as at 1st March 2022, my first instalment payment of £240 has been paid leaving a balance of £725.16.</p>
<p>29 March 2022</p>	<p>£70.00</p>		<p>No 8</p>	<p>This is FirstPort charging me Administration Charge for the account records they got wrong. I am, please requesting that this Tribunal rule in my favour, that FirstPort pay back this money on the basis of the evidence provided</p>
<p>30 August 2022</p>	<p>£323.37</p>		<p>No 10</p>	<p>This demand by FirstPort was made to my solicitors stating it was an outstanding Service Charge balance that must be paid for completion to take place. EDN 10 gives a detailed explanation as to why FirstPort should refund this money to me.</p>

20 October 2021		£3,168.99	No 11	<p>The breakdown of this figure as fully explained in EDN 11 are as follows: Amount added to my mortgage as a result of JB Leitch action = £2240.23 (EDN 11E). Administration fee charged by Mortgages PLC as a result of JB Leitch action £53.00 (EDN 11E). Another Legal Fee of £875.76 paid to JB Leitch through bank transfer.</p>
				<p>I SPECIFICALLY WANT TO PLEASE DRAW THE ATTENTION OF THIS TRIBUNAL TO EDN 11A AND EDN 11AA. The so call "arrears," the reason for these costs dose not exist because I have fully paid the Service Charge for this period by 29 June 2021 and this letter of demand by FirstPort and JB Leitch was written 20 October 2021.</p>
20 October 2021		£322.20	No 11A	<p>JB Leitch Solicitors acting on behalf of FirstPort claimed that a "Service Charge arrears" £322.20 for the period 1 March 2021 – 31 August 2021 is outstanding. EDN 11 clearly show that I have made the full payment £968.90</p>

<p>5 November 2021</p>	<p>£850.00</p>	<p>No 11AAA</p>	<p>for Service Charge for this period by 29 June 2021. Legal Fee demanded by JB Leitch and added to my account balance for me to pay (EDN 11AAA).</p>
<p></p>	<p></p>	<p></p>	<p>*I like to please request that all the itemised demands above be added up, and this Tribunal oblige FirstPort Property Limited to pay this money back to me based on the evidence provided.</p>
<p></p>	<p></p>	<p></p>	<p>*I equally would want to please request that this Tribunal oblige FirstPort to pay interest of 3.5 % (on £2293.23) from November 2021 – 31 August 2022 when the mortgage stopped. Equally so, Standard interest on £875.76 (EDN 11). *A sum, deemed appropriate, and determined by this Tribunal to cover my postage costs for the many letters I had to write to FirstPort with proof of postage.</p>

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Schedule B

ANNEX "G"**SCOTT SCHEDULE – RESPONDENT’S SCOTT SCHEDULE**

Item Challenged	Comments
£31.95 Credit (Apartment 54) – 1 September 2022	<p>Service charges are outside the scope of the Application.</p> <p>This was applied to the service charge account (appearing thereon).</p> <p>Please see 6.2 of the Second Schedule – any overpayment is to be credited against future payments due from the Lessee or even transferred to the reserve fund (at the Manager’s discretion). Note that the Lessee means the person for the time being entitled to the term i.e. it can mean the new lessee where the former lessee’s interest in the Property is sold. There is no contractual obligation to pay the credit to the Lessee’s personal bank account, as requested.</p>
£8.13 interest (Apartment 54) – 19 November 2020	<p>Interest is outside of the scope of the Application.</p> <p>It is not within the jurisdiction of the Tribunal, unless transferred from Court but has not been so transferred.</p> <p>Interest is chargeable on monies due under the Leases – Part I, Paragraph 3, Eighth Schedule.</p> <p>Interest would not have been charged but for the Applicants failure to comply with the Leases (failure to pay monies due thereunder).</p>
<p>Administration Charges</p> <p>£60 Administration Charge (Apartment 54) - 27 November 2020</p> <p>£70 Administration Charge (Apartment 54) – 15 February 2022</p> <p>£70 Administration Charge (Apartment 42) – 5 April 2022</p> <p>£60 Administration Charge (Apartment 42) – 5 October 2021</p> <p>£60 Administration Charge (Apartment 42) – 16 June 2021</p> <p>£53.21 Administration Charge (Apartment 42) – 27 November 2020</p>	<p>Please see the Statement of Case herewith for full explanation.</p> <p>Chargeable under the Leases either to the Lessee or via the service charge scheme per the matters/services that can be charged for (i.e. to all lessees via the service charge).</p> <p>Incurred in pursuing arrears due under the Leases. Evidence of work done is with the said Statement.</p>

<p>Legal Review Fees</p> <p>£60 Legal Review Fee (Apartment 54) – 16 December 2020</p> <p>£70 Legal Review Fee (Apartment 42) – 16 May 2022</p> <p>£60 Legal Review Fee (Apartment 42) – 16 December 2020</p>	<p>Please see the Statement of Case herewith for full explanation.</p> <p>Chargeable under the Leases either to the Lessee or via the service charge scheme per the matters/services that can be charged for (i.e. to all lessees via the service charge).</p> <p>Incurred in pursuing arrears due under the Leases, specifically in having to instruct and liaise with solicitors to pursue. Evidence of work done is with the said Statement.</p>
<p>£174.23 Payment (Apartment 54) – 17 January 2022</p>	<p>Nonsensical challenge. This is a payment received via the Respondent’s solicitors. Payment is a part payment against the Applicant’s liability and was applied accordingly (you can see the Applicant was in arrears at the time).</p> <p>The Applicant has no right to its return and his challenge is not legitimate.</p> <p>Apartment 54 was the subject of County Court proceedings so this challenge is an abuse of process (see the Statement of Case herewith).</p> <p>This is not an administration charge so is outside of the scope of the Application, not falling for determination.</p>
<p>£168.41 Service Charge Balance (Apartment 54) - 1 September 2020</p>	<p>Service charges are outside the scope of the Application.</p> <p>Was estimated and demanded under the Leases (as required). It has long been paid via the Applicant’s payments on his Statement of Account.</p> <p>The Applicant has no right to its return and his challenge is not legitimate.</p> <p>Apartment 54 was the subject of County Court proceedings so this challenge is an abuse of process (see the Statement of Case herewith).</p>
<p>£323.37 Service Charge Payment (Apartment 42) – 30 August 2022</p>	<p>The Applicant’s “evidence” document referred to is just is own created document without evidential value.</p> <p>There is no such entry on the Statement of Account that we can see. All payments received are recorded thereon and applied against the balance due in each instance.</p> <p>This is not an administration charge so is outside of the scope of the proceedings, not falling for</p>

	<p>determination – the Applicant indicates he was paying service charges.</p> <p>The Applicant had attempted to sell his interest in Apartment 42 whilst still in arrears; JBL had been instructed to recover the balance due prior to any sale being authorised/permited. The relevant details and correspondence are within and Annexed to the Respondent’s Statement of Case, to which the Tribunal is referred. Returning payments made by the Applicant would (i) simply recreate the debt and (ii) the matter of repayment (including of service charges) is outside the scope of the proceedings as aforesaid, which are solely concerned with the listed administration charges.</p>
£595.87 Service Charge (Apartment 52) – 26 January 2022	<p>The Applicant’s “evidence” document referred to is just his own created document without evidential value.</p> <p>There is no such entry on the Statement of Account that we can see. All payments received are recorded thereon and applied against the balance due in each instance.</p> <p>This is not an administration charge so is outside of the scope of the proceedings, not falling for determination – the Applicant refers to ground rent and service charge payments in his accompanying document.</p> <p>Apartment 54 was the subject of County Court proceedings so this challenge is an abuse of process (see the Statement of Case herewith).</p> <p>This is not an administration charge so is outside of the scope of the Application, not falling for determination.</p>
£397.78 Service Charge (Apartment 42) – 24 May 2022	<p>£537.78 due as at 16 May 2022. The £397.78 was the balance of service charges due at the time, per the breakdown, as pursued by JBL via their instruction (the relevant correspondence is Annexed to the Respondent’s Statement).</p> <p>This is a nonsensical challenge though in any event concerns service charge, which is outside of the scope of the Application and does not fall for determination in these proceedings.</p>
£112.50 Ground Rent/Ground Rent Payment (Apartment 54) – 29 March 2022	<p>This amount pertains to ground rent. It is mentioned in the Applicant’s schedule; ground rent is not a matter for determination, being outside of the scope of the Application and outside of the applicable jurisdiction.</p>
£3,168.99 Payments of Mortgage Provider and Applicant (Apartment 54) – 28 October 2021	<p>This challenge is an abuse of process.</p>

	<p>The Applicant has omitted key information and documentation from the Tribunal proceedings – it will be noted that he does not refer to the County Court or indeed the Judgment against him in that regard.</p> <p>This is addressed within the Statement of Case herewith.</p> <p>Judgment against the Applicant for £2114.46 – 18 November 2021.</p> <p>Applicant failed to pay the Judgment – his mortgage provider was contacted to pay, including the legal costs of having to approach them re payment – they made the decision to pay under fear of enforcement of the Judgment (which was their decision and prerogative and cannot be interfered with) – they paid £2240.23. Legal costs are also not within the Tribunal’s jurisdiction or within the scope of the Application in term of what can be determined. The matter has already been determined by the County Court per the aforesaid Judgment.</p> <p>The Judgment was challenged by the Applicant (via set aside application). The challenge failed and a further Judgment was given for costs of £875.76, hence the Applicant’s payment.</p> <p>The Applicant actively attempting to subvert or otherwise go behind the Judgments in all of his challenges pertaining to Apartment 54. In so doing he has omitted all references to the County Court or indeed the Judgments which unfortunately suggests the Applicant is attempting to mislead the Tribunal and has in part, brought the Application in bad faith.</p> <p>Please see the Applicant’s Statement of Account, explaining and evidencing the position.</p>
<p>£2240.23 (sometimes referred to as £2293.23 by the Applicant) and £875.76 – Payments</p>	<p>Please see above. These challenges are duplicates of the challenge above. The County Court has considered and given Judgments, which cannot be interfered with (nor are legal costs matters for determination in these proceedings). This is an abuse of process and the Applicant has omitted any reference to the County Court hence is attempting to actively mislead the Tribunal.</p>
<p>£1142 Claim Against the Respondent</p>	<p>This is nonsensical and not a proper/genuine challenge that may be brought. It is an abuse of process.</p> <p>When reviewing the Applicant’s breakdown of how the figure is comprised it becomes clear</p>

	<p>that the figure is a claim he wishes to make against the Respondent for repayment of losses the Applicant wrongly attributes to it, for electricity, water, mortgage payments, council tax and service charge.</p> <p>The FTT is not the correct forum. This is not something that can be determined by the FTT and is outside of the scope of the Application. Such claims are matters for the County Court (although it would be a nonsense claim without merit anyway), which has already ruled in the Respondent's favour specifically in respect of Apartment 54.</p>
£837.87 – 26 January 2022 (Apartment 54)	<p>All payments received appear on the Applicant's Statement of Account. This appears to be (when looking at the document referred to) a challenge relating to payment of service charges and ground rent, none of which falls for determination and is entirely outside the scope of these proceedings. Moreover, it relates to Apartment 54 which the County Court proceedings already considered (including all payment and what was due at the time) and determined the matter in the Respondent's favour. This challenge is yet again an abuse of process, designed to re-challenge matters already determined against the Applicant.</p>
£240 – March 2022 (Apartment 42)	<p>This is nonsensical. The £240 was an instalment payment made by the Applicant and is reflected on his Statement of Account as a part payment towards his total liability. Not a genuine or material challenge. In explaining, the Applicant undertakes and inaccurate and nonsensical assessment of his service charge liability, which is again, outside of the scope of these proceedings and does not fall for determination.</p>
£322.20 – 20 October 2021 (Apartment 54)	<p>This appears to be a challenge relating to service charge arrears, thus not falling within the scope of these proceedings. Moreover, it pertains Apartment 54 in respect of which arrears and costs were reviewed and determined by the County Court, as explained herein above.</p>
£850 Legal Costs – 5 November 2021 (Apartment 54)	<p>This is an abuse of process and nonsensical challenge. You will see that £850 is not on the Statement of Account. The £850 forms part of the legal costs ultimately ordered payable by the County Court within its above mentioned Judgement that was ultimately paid by the Applicant's mortgage provider (also as above). This is a rehash of the same challenge above pertaining to the mortgage provider's payment</p>

	of the Judgment and is therefore a veiled duplicated challenge and an abuse of process.
£252 Legal Costs	These are legal costs incurred in instructing JBL to pursue arrears due under the Lease. Legal costs are outside of the scope of these proceedings i.e. outside of the scope of the Application. They are not within the jurisdiction of the FTT. Please also see the Statement of Account, which addresses these items.
£130.87 Service Charge (Apartment 54) – 29 March 2022	Nonsensical challenge. It is merely referred to as imaginary. There is no substantive challenge. Service charges balance, which is outside of the scope of the proceedings as aforesaid. Apartment 54 was the subject of County Court proceedings so this challenge is an abuse of process (see the Statement of Case herewith). This is not an administration charge so is outside of the scope of the Application, not falling for determination.
£100.05 Service Charge (Apartment 42) – 22 February 2022	Nonsensical challenge. All payments made were applied per the Statement of Account. There is no substantive challenge. It is a service charges balance, which are outside of the scope of the proceedings as aforesaid.
£483.37 Service Charge (Apartment 54) – 15 February 2022	Not a genuine or applicable challenge. Service charges balance, which are outside of the scope of the proceedings as aforesaid. Apartment 54 was the subject of County Court proceedings so this challenge is an abuse of process (see the Statement of Case herewith). This is not an administration charge so is outside of the scope of the Application, not falling for determination.

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

Case Reference : **BIR/00CN/LAC/2023/0002**

Property : **Apts 42 & 54, 50 George Street,
Birmingham, B3 1PP**

Applicant : **Olukayode Kenneth Ogunkoya**

Respondents : **David Wison Homes Limited (1)
First Port Property Services Limited (2)**

Schedule C

