



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

**Case reference** : **LON/00AG/LSC/2023/0137**

**Property** : **Various Flats, Chichester Court,  
Royal College Street, London NW1  
9LZ**

**Applicants** : **Various tenants set out in the Annex**

**Representative** : **Bryony Freemantle, lead leaseholder**

**Respondent** : **Riverside Group Ltd**

**Representative** : **Stephen Evans of counsel, instructed  
by Devonshires**

**Type of application** : **Application for a determination of  
the reasonableness and payability of  
service charge under S.27A Landlord  
and Tenant Act 1985**

**Tribunal** : **Judge Adrian Jack, Tribunal Member  
Sarah Phillips MRICS**

**Date of Decision** : **2<sup>nd</sup> December 2023**

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**DECISION ON COSTS**

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## **Background and procedural**

1. The Tribunal determined this matter in its written decision of 5<sup>th</sup> October 2023. Directions were given for the determination of costs. These comprise the fees payable to the Tribunal and the tenants' application for an order under section 20C of the Landlord and Tenant Act 1985. Both parties have made submissions in accordance with the directions given in our decision of 5<sup>th</sup> October 2023

## **Fees payable to the Tribunal**

2. The Tribunal has a discretion as to who should pay the costs payable to the Tribunal. These comprise the issue fee of £200 and the hearing fee of £100. In our judgment, both sides have had a measure of success in this matter. In these circumstances in our judgment the incidence of the fees should be split evenly. Accordingly we consider that the landlord should pay the tenants £150.

## **Section 20C**

3. As noted, the tenants seek an order under section 20C of the Landlord and Tenant Act 1985 to prevent the landlord recharging any of its legal costs to the tenants in the service charge.
4. Both parties have made submissions about what occurred at the mediation before Judge Korn. As we said in our original decision, in general, what is discussed at a mediation is completely without prejudice and cannot subsequently be relied upon. In the current case, each side made submissions about what occurred.
5. Although it is arguable that this has the effect of waiving the confidentiality which otherwise attaches to a mediation, it seems to us we have a discretion as to whether we should take any of these matters into account. In the current case, the parties disagree about what occurred. We have consulted Judge Korn. He points out that a mediation has two elements to it. There are the private discussions between one party and the mediator and then the discussions between the other party and the mediator. The mediator will only tell a party what the other party has permitted him to reveal.
6. The effect of this is that a party's willingness to compromise as told to the mediator may not reflect what the mediator tells the other side. For a not uncommon example, one party may say to the mediator they would settle at £X but that the mediator should not tell the other side that, in the hope that the other side would make a more favourable offer than £X.
7. Further it would be invidious to ask a mediator to give his or her views on the parties' behaviour at a mediation. It would run completely contrary to the key requirement that full confidentiality be observed at a mediation. If it became known that a mediator might give his views

on a party's behaviour that would have a very deleterious effect on the whole nature of mediation and the willingness of parties to participate in a mediation.

8. In our judgment this makes reliance on whatever offers were (or were not) made at mediation unsafe and inappropriate. Accordingly we ignore the parties' submissions as to what occurred at the mediation.
9. As to the making of a section 20C order, our starting point is that the Tribunal should be careful before making an order interfering with a landlord's contractual rights. In the current case the landlord has not acted unreasonably and the honours, as we have noted, are roughly even. In these circumstances it is not in our judgment appropriate to make a section 20C order.

#### **DETERMINATION**

- a) The landlord do pay the tenants £150 in respect of the fees payable to the Tribunal.
- b) The tenants' application for an order under section 20C of the Landlord and Tenant Act 1985 is refused.

**Name:** Judge Adrian Jack

**Date:** 2<sup>nd</sup> December 2023

## ANNEX

The applicant tenants and their flat numbers are:

Halime Lipovica (1)  
M Iovic-Daiwan (2)  
Stacey Bottle-Phillips (4)  
Anna Madden (5)  
Joyce Omoboriowo (7)  
Jessica Tully (8)  
A V V Clark (9)  
Cina Aissa (10)  
Carl Griffith (13)  
R Bireh (14)  
Andrew Gervaise-Johnson (15)  
Bryony Freemantle (16)  
Kirsten Rapp (20)  
Yin Ruby Lam (23)  
Aram Simonyan (24)  
Gary Coleman (25)  
David Lewis (26)  
Vered Gruenberg (29)  
Natalie Chentite (30)  
Sarah Hartnett (31)  
Yasmin Begum (34)  
Zarife Krasnigi (35)  
Nadia Pereira (38)  
Carey Smith (39)  
Emelye Rennards (40)  
V Murphy (41)