FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	CHI/00ML/LSC/2023/0066
Property	**:**	Flats B, C & D 514 Christchurch Road, Bournemouth, Dorset, BH1 4BE
Applicant	**:**	(1) Dorset Property Developments Ltd (Flat B) (2) JDM Homes Ltd (Flat D) (3) Mr M Ziegfried De Kment (Flat C)
Representative	**:**	Mr A Moore (Director)
Respondent	**:**	Long Term Reversions Ltd
Representative	**:**	Mr R Granby of counsel, instructed by LMP Law solicitors
Type of Application	**:**	Landlord and Tenant Act 1985 s.27A (service charges)
Tribunal Members	**:**	Tribunal Judge M Loveday Mr B Bourne MRICS Ms T Wong
Date and venue of Hearing	**:**	31 January 2024, Havant Justice Centre
Date of Decision	**:**	8 March 2024

DETERMINATION

Introduction

1. This is an application relating to liability to pay service charges for three flats in Bournemouth.

2. For the reasons given below, the tribunal determines that:

    a. The cost of works to renew the roof covering in 2023 (and associated repairs to gutters, parapet walls, etc.) is recoverable under the covenants in the flat leases.
    b. For the 2021-22 service charge year, the tribunal finds the cleaning costs were not of a reasonable standard under s.19(1)(b) of the 1985 Act. It reduces the recoverable cleaning costs from £498 to £98, and the amount payable by the applicants by way of service chargers is limited accordingly. Other than that, the tribunal rejects the challenges to the 2021-22 service charges.
    c. Each applicant is liable to pay the respondent an interim service charge of £3,220 for the 2022-23 service charge year by two equal half-yearly payments of £1,610 on 1 January and 1 July 2023.
    d. No order is made under s.20C of the Act.

Background

3. The matter relates to 514 Christchurch Road, Bournemouth, Dorset, BH1 4BE, which comprises a 2-storey corner property c.1900 in the Boscombe area of the town. There are commercial premises on the ground floor, with access to the through a street door in Salisbury Road and a staircase to the flats above. Flats B and C are located on the first floor, and Flat D on the second floor.

4. The respondent is the owner of a headlease of the residential upper parts of the premises and employs SPL Property Management as managing agents.

5. By an application dated 9 May 2023, the lessees of the three flats sought a determination of liability to pay service charges under s.27A of the 1985 Act. The application specifically challenged liability to pay service charges for the 2021-22 service charge year and interim service charges for the 2022-3 service charge year.

6. The tribunal was provided with copies of the 2021-22 and 2022-23 budgets, the 2020-21 and 2021-22 accounts, and service charge statements for each flat. There were also various receipts and invoices for costs incurred by the respondent, s.20 notices and tender documents.

7. Directions were given on 16 October 2023, and a hearing took place on 31 January 2024. The applicants were represented by Mr Moore, a director of the first applicant. The respondent was represented by counsel, Mr Richard Granby. The tribunal is grateful for the assistance of both.

The Leases

8. The headlease is dated 22 December 1994. A copy was provided to the Tribunal at the hearing (and Mr Moore did not object to its late admission). The material covenants on the part of the lessee at clauses 3(12) and 4(1):

> "**(12) To comply with Statutes**
>
> To comply in all respects at the Tenant's own cost with the provisions of any statute statutory instrument rule order or regulation and any order direction or requirement made or given by any authority or the appropriate Minister or Court so far as the same effect the Demised Premises (whether the same are to be complied with by the Landlord the Tenant or the occupier) …"

and

> **"(1) Repair**
>
> Repair maintain renew uphold and keep the Demised Premises and all parts thereof in good and substantial repair and condition …".

9. By underleases dated 6 November 1995, 2 August 1995 and 24 October 1995, Flats B, C and D were each demised for a term of 99 years (less 10 days) from 25 March 1989. Save for various minor typographical errors, the material terms of the three leases were the same.

10. The basic obligation to pay the service charge is at clause 3.2 of each lease:

> **"3.2 TO** pay the service charge and all interim service charge instalments calculated in accordance with the Third Schedule on the dates stated there"

11. The material provisions of Sch.3 are:

> **1 "Service costs"** means the amount the Landlords spend in carrying out all the obligations imposed by this lease and the Head Lease in accordance with its terms
> "final service charge" means one third part of the service costs (**33 1/3%**)[1]
>
> **4(a) If** a service charge statement shows a positive, the Landlords must pay that sum to the credit of the Tenants to be offset against future instalments
>
> **(b) If** a service statement shows a negative balance, the Tenants must pay the sum to the Landlords within fourteen days after being given the statement

12. The services to be provided by the landlords in Sch.5 are:

[1] This provision contains an obvious formatting error, which is corrected.

"**1 Repairing** the roof, outside, main structure and foundations of the building including the forecourt and parking spaces in accordance with the terms of the Head Lease

2 Contributing a fair proportion of the costs of repairing, maintaining and cleaning any building, property or sewers, drains, pipes, wires and cables of which the benefit is shared by occupiers of the building and occupiers of other property

…

4. Repairing and whenever necessary decorating and furnishing the common parts

5. Lighting and cleaning the common parts

6. Repairing and maintaining those services in the building and its grounds which serve both the property and other parts of the building

7. Providing within the building reasonable facilities and arrangements for:
(a) **security**
…
(c) **rubbish disposal"**

13. There is then a provision for a reserve fund at Sch.6.

"1 **The** Landlords maintain a reserve fund to accumulate in advance the expected cost of the following items of work to the building ("reserve fund works"):
(a) **major** repairs to the roof and foundations
(b) **exterior** and common parts decoration and refurbishment"

…"

The 2023 roof works

14. The principal item in dispute relates to works to the flat roof to the rear of the property carried out during the 2022-23 service charge year.

15. The roof works are described in a specification of works prepared by Chartered Surveyors Greenwald Associates dated October 2021. In essence, the specification provided for the removal of the existing coverings to a 20m² flat roof at the rear of the property, and its replacement with a multi-layer waterproof roof covering – together with associated maintenance of rainwater goods, parapet pointing works and leadwork.

16. Mr Moore explained the original roof covering was a form of bitumen laid over wood. There is no clear evidence of the defects to the old roof, but on 12 September 2022, the agents sent the lessees a s.20 Notice of Intention. The notice described the works as:

> "Replacement to the roof the property, including repair of lead work, repair and replacement of waterproofing layers, inspection and repair to the parapet wall and rainwater goods where appropriate and where access is available, and any other associated works"

The covering letter stated that "it has been identified that the roof has come to the end of its life and needs replacing." The Reply stated that "The roof had not leaked since September 2021". There is an email from the agents dated 5 December 2023 which states that "the specification is believed to address the any ingress issues and all associated works…". Mr Moore replied to this on 24 March 2023, which (although it dealt with later water leaks to the new roof), did not contradict this statement. In his oral submissions, Mr Granby suggested the respondent had relied on two reports prepared in October 2021 and 2023, both of which recommended replacement of the roof covering. But copies were not made available to the tribunal.

17. On the limited evidence available, the tribunal finds on balance that parts of the flat roof and/or detailing had failed, so as to allow occasional water penetration into the rooms below. That water ingress occurred on more than one occasion before December 2021.

18. The works were undertaken by Eclipse Roofing and Waterproofing, whose invoice for £17,418 incl. VAT (Valuation No.1) is dated 12 September 2023. There is a roof warranty for the works dated 5 October 2023 which states they were completed in September 2023. The project was managed by Greenwards, whose tender supervision fees (£594) and 8% works supervision fees (£1,413.72) are also in the hearing bundle.

19. The annual service charge accounts for 2021-22 dated 4 April 2023 showed a contribution to the "roof fund" of £21,000 during the 2021-22 service charge year. Although the costs of the roof works therefore appear to have been met from the reserve, the tribunal was invited to determine whether a contribution to the roof costs were recoverable under the terms of the flat leases.

The case for the parties

20. The applicants put their case very simply. The application itself describes the question about interpretation of the flat leases is whether "the charges for renewing the roof [are] due - as the lease only refers to 'repair'". In their Reply, the applicants suggested "obviously renew has a wider meaning than repair". Mr Moore repeated this in his oral submissions.

21. The respondent's argument was developed in some detail by Mr Granby both in his skeleton argument provided to the tribunal and in oral submissions. In essence, the word "repair" can include replacement and improvement: *Murray v Birmingham CC* (1988) 20 H.L.R. 39 and *Waaler v Hounslow LBC* [2017] EWCA Civ 45; [2017] 1 W.L.R. [2017] EWCA Civ 45; [2017] 1 W.L.R. 2817 at [129-144]. It was also material that the respondent was expressly obliged by clause 4.1 of the Headlease "to repair maintain renew uphold and keep the Demised Premises and all parts thereof in good and substantial repair and condition …". He also referred to the fact that the new roof was required to

comply with Building Regulations and Building Safety Standards as shown in the specification. There was no evidence that patch repairs would have been cheaper or sufficient.

Discussion

22. Whether a party to a lease satisfies a covenant to repair is assessed by reference to the five-stage approach summarised in *Dilapidations: The Modern Law & Practice* (7th Ed) ("*Dowding & Reynolds*") at 6-04ff.

23. First, it is not disputed that the flat roof falls within the subject matter of the covenants. The respondent is obliged to repair the flat roof both directly (at para 1 of Sch.5 to the Lease) and indirectly (at para 3.1 of Sch.3 to the Headlease and the definition of "service costs" at para 1 of Sch.3 to the Lease).

24. Secondly, on the above finding of fact, the tribunal also finds that the flat roof was in a damaged or deteriorated condition when the works were carried out. The agents suggest the roof had reached the end of its useful life, which suggests a deterioration from a pre-existing condition. But in any event, it is a fairly fundamental feature of a roof covering that it should be watertight, even if it allows water in only intermittently.

25. Thirdly, even though not every occasion of physical damage or deterioration will give rise to a liability under the above covenants, the consequence of a leaky roof is that the premises are not in the state and condition that the covenant contemplates they should be in. The headlease requires the Demised Premises to be kept "in good and substantial repair and condition". Para 1 of the flat leases imports the same standard of repair. A leaky roof is not in "good and substantial repair".

26. The fourth stage is to consider the works which were required to put the premises back into the required "good and substantial repair and condition". This is a question of evidence, not law. The basic principle here is that the chosen method of remedying the defect must be reasonable. Given the advice of the managing agents, supported by Greenwald Associates, it is hard to see how the choice of replacement of the roof coverings was not a reasonable one. By contrast, there is simply no evidence that patch repairs would have been a realistic alternative to replacing the roof covering. It is not enough for the applicants to say the agents never considered an alternative. Evidence must be given to show that replacement of the roof coverings was wholly pointless or unnecessary.

27. Finally, and materially in this case, the question arises whether the nature of the work specified by Greenwood Associates is such that it goes outside what the covenant obliges the respondent to carry out. This involves a familiar "fact and degree test". The courts have not generally treated a covenant to keep in repair as a warranty that the premises will always be in a state of "repair" regardless of what work may be required to achieve that state. On the contrary, the authorities proceed on the footing that there may come a point when the nature of the defect is such that the necessary remedial work cannot properly be called "repair" at all but amounts to something different and more extensive.

Put another way, the work which is required is not work which the parties can be taken to have contemplated that the covenanting party would be liable to carry out: *Dowding & Reynolds* at 11-01.

28. The basic argument raised by the applicants is that the works go beyond the respondent's repairing covenant, because (in para 1 of Sch.5 to the flat leases) they are works to "renew" the roof, not to "repair" it. The difficult with this argument is threefold:
    a. First, as Mr Granby submits, even the word "repair" alone may include "replacement": *Murray v Birmingham City Council*. Indeed, it is recognised that the express inclusion in a general repairing covenant of an obligation "to renew" adds nothing to an obligation "to repair": *Dowding & Reynolds* at 11-06. It follows that the absence of the word "renew" in para 1 of Sch.5 cannot be decisive – or even relevant.
    b. Secondly, para 1 of Sch.5 expressly refers back to the standard of repair as being "in accordance with the terms of the Head Lease". The standard of repair in clause 4(1) of the Headlease does include the word "renew".
    c. Thirdly, clause 4(1) of the Headlease is another route to liability, since the "service costs" in Sch.3 include the costs incurred by the respondent in meeting its obligations to repair in the Headlease.

29. It follows that renewal of the roof covering (and associated repairs to gutters, parapet walls, etc.) does not go beyond the covenants in the flat leases.

The 2020-21 service charges

30. The applicants objected to 11 specific items of cost in the 2021-22 service charge accounts under s.19(1)(a) and (b) Landlord and Tenant Act 1985. Section 19 of the 1985 Act is as follows:

> **"Section 19 Limitation of service charges: reasonableness.**
> (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—
> (a) only to the extent that they are reasonably incurred, and
> (b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;
> and the amount payable shall be limited accordingly.
> (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise"

31. The tribunal will deal with each objection in turn, giving brief reasons for its decision in each case.

Cleaning

32. The 2020-21 service charge accounts included cleaning costs of £498. The bundle included invoices form SPL for cleaning. it appears there were charges for monthly cleaning of £36 or £40 with an annual "deep clean".

33. The application suggested the cleaning should be reduced by £400 because cleaning services were not of a reasonable standard. The applicants described the cleaners as "ghost cleaners", because they only attended twice in 14 months. The Reply suggested cleaning was not done. The applicants had exposed that the cleaners had been filling in time sheets at the property, but they were not in attendance or were only attending only to complete their time sheets. The respondent had admitted the cleaners were not attending and therefore terminated their contract. This was also evidenced by dirt and rubbish which one of the applicants deliberately left to test whether cleaning took place. Undated photographs were included in the bundle showing the stairs from the street door with leaves, rubbish and abandoned post, a torn and dirty carpet, and scuffed and grubby walls.

34. The respondent accepted the agents previously employed 'in house' cleaners and that it had replaced them with external contractors after complaints were made about the standard of cleaning. There was no copy of any cleaning log or the cleaning specification in the bundle.

35. Although the evidence is far from comprehensive, the photographs, the complaints and the fact the respondent replaced the previous cleaners is consistent with the suggestion that no or minimal cleaning was carried out in 2021-22. Cleaning services were not of a reasonable standard under s.19(1)(b) of the 1985 Act. The tribunal accepts that a reasonable reduction would be £400, and that the relevant costs of cleaning in the 2021-22 service charge year is limited to £98.

Gutter clearance

36. The applicants objected to payment for gutter cleaning because this was "not done as the agents had admitted. However, Mr Granby referred to the 2020-21 service charge accounts which show no costs for gutter cleaning were included in the 2020-21 expenditure. Given this evidence, the objection cannot be sustained.

Internal repairs

37. The 2020-21 service charge accounts included costs of £863 for general repairs and maintenance. These were detailed separately in a note to the accounts and included internal works such as electrical repairs, fitting a new noticeboard, supplying an anti-arson mailbox, locksmiths, door entry system repairs, etc. In their Reply, the applicants suggested there were no internal repairs that could be carried out besides the fire alarm system and emergency lighting.

38. In his oral submissions, Mr Granby referred to the various invoices in the bundle which supported this expenditure.

39. The tribunal accepts the respondent's case on this. The breakdown of these costs in the service charge accounts and the invoices in the bundle are prima facie evidence that the costs were incurred. No other objection is made to them.

External repairs

40. The application also referred to external repair costs of £800. Although this figure appeared in the 2020-21 budget, no expenditure for external works was included in the final service charge accounts. Mr Moore explained he did not therefore wish to pursue this at the hearing.

Solicitors fees

41. Once again, no solicitors costs appeared in the 2021-22 service charge accounts. Mr Moore suggested the tribunal could safely ignore any objection to these fees in the 2021 service charge year.

42. The 2020-21 service charge accounts included costs of £863 for general repairs and maintenance. These were detailed separately in a note to the accounts and included internal works such as electrical No costs are due to the agents for instructing a solicitor as … agents were not advised on any disputes - see email 16 March 2023

Surveyors fees

43. The application stated that the process for appointing the surveyor did not comply with the consultation requirements of s.20 of the 1985 Act. Since the surveyors' costs were above the permitted amount, they were capped at £250. Mr Moore repeated this in oral submissions.

44. Mr Granby submitted that surveyors' fees were not within the definition of major works in s.20ZA(2) of the 1985 Act. He also relied on a s.20 Notice of Intention dated 19 September 2022 and a Statement of Estimates 24 February 2023. The latter mentions "professional fees due to the appointed surveyor and managing agents at a net percentage of the total works".

45. The tribunal rejects the applicants' arguments on this, for three reasons:
    a. First, the 2021-22 service charge accounts do not include any expenditure for surveyor's fees. It appears that the respondent incurred fees of £814 for a roof condition report, and £714 for the schedule of works, but both these appear in the previous service charge accounts.
    b. Secondly, the tribunal finds that the definition of "qualifying works" in s.20ZA(1) of the 1985 Act is generally limited to the contractor's costs and that it does not include related professional fees such as surveyors' fees: *Service Charges & Management* at 11-07.
    c. The respondent did consult about the professional fees: see Statement of Estimates dated 24 February 2023.

Fire surveys

46. The 2021-22 service charge accounts include £2,087 for health and safety. The notes to the accounts refer to six items, including a health and safety inspection (£270), a fire risk assessment (£240). The application suggested these were unnecessary. In oral submissions, Mr Moore referred to the 2020-21 service charge accounts, which showed a cost of £1,240 for "fire safety hardware". He

suggested this was a test, and the expenditure of a further £270 and £240 for testing was unnecessary in the following year.

47. Mr Granby suggested there was no evidence of a health and safety inspection or fire risk assessment in 2020-21. In any event. The RICS Service Charge Residential Management Code (3rd Ed) recommended inspections every 18mo – 2yrs. This was a reasonable interval.

48. The tribunal agrees with the respondent. There is no factual basis for the assertion that costs had not been incurred for a health and safety inspection or a fire risk assessment in 2020-21.

Conclusions – 2021-22 service charges

49. For the 2021-22 service charge year, the tribunal reduces the cleaning costs from £498 to £98. Other than that, the tribunal rejects the applicant's challenges to the 2021-22 service charges.

Interim service charges 2022-23

50. The 2022-23 interim service charges were apparently demanded for payment on 4 January and 25 May 2023. The respondent sought payment of £3,220pa by two equal half-yearly payments of £1,610. The 2022-23 budget produced by SPL referred to estimated costs of £7,560 together with a £2,100 contribution to reserves for future cyclical major maintenance works.

The case for the parties

51. The applicants challenged six items in the budget, namely the estimated costs of gutter clearance (£400), rubbish clearance (£160), internal repairs (£800), external repairs (£1,000), fire door survey (£150) and emergency light tests (£530). No challenge was made to other elements of the budget.

52. The respondent's case was that the budget had been prepared by the managing agents, and that each of the estimated items of cost fell within the terms of the lease:
    a. Gutter clearance fell within paras 1 and 2 of Sch.5;
    b. Rubbish disposal fell within paras 7 of Sch.5;
    c. Internal repairs fell within para 4 of Sch.5;
    d. External repairs fell within para 1 and 2 of Sch.5;
    e. Fire door surveys fell within para 7 of Sch.5; and
    f. Emergency light tests fell within para 7 of Sch.5.

53. In the application, the applicants argued the gutter clearance was not done, there had been no rubbish clearance, internal or external repairs. The fire door survey had been done the previous year, and so this provision was unnecessary for 2022-23. The emergency light test was for testing only 2 emergency lights, and they could be checked during routine fire alarm testing.

54. In their Reply, the applicants suggested the respondent provided "no bins at all". SPL had a waste licence, but the 'ghost cleaners' that were said to attend to the property did not. He repeated his arguments about the fire door survey and

emergency light testing did not fall within the term "security" in clause 7 of Sch.5. The provision would not cover those costs.

55. In oral submissions, Mr Moore disputed that the rubbish disposal was a proper item of costs, because there was nowhere to store rubbish in the common parts. He argued there had been no genuine intention to incur costs on repairing the internal or external parts until after the roof works were carried out. The fire door survey and emergency light tests could have been carried out by the agents.

56. Mr Granby submitted that an 'on account' demand need only be a reasonable estimate of proposed expenditure: see s.19(2) Landlord and Tenant Act 1985 and *Service Charges and Management* (5th Ed) at 12-28 to 12-31. The respondent was only obliged to make a reasonable estimate of the costs which were to be incurred in the forthcoming service charge year, and the costs which were actually incurred in 2022-23 were irrelevant. One could infer from the budget itself that the process had been properly carried out. In addition to the matters at para 17 above, Mr Granby referred to clause 3(12) of the Headlease, which covered the respondent's building safety obligations in respect of fire door surveys and emergency lighting.

Discussion

57. In essence, the tribunal accepts the respondent's approach to the interim service charges. The only questions for the tribunal are (a) whether the disputed costs may properly be included in the interim service charges for 2022-23 under the terms of the flat leases, and (b) whether the interim service charges were limited by s.19(2) of the 1985 Act.

58. As far as the terms of the flat leases are concerned, gutter clearance, rubbish disposal, internal and external repairs plainly fall within one or other of the items of costs in Sch.5. The tribunal agrees with the applicants that fire door surveys and emergency light testing cannot properly be described as "security" in para 7 of Sch.5. But it considers these costs fall within the extended definition of "service costs" in para 1 of Sch.3 to the flat leases. These include the amount the respondent spends in meeting its obligations imposed by the headlease. Although the tribunal was not referred to any specific statutory or regulatory requirements, fire door inspections and safety lighting checks can properly be said to clause 3(12) of the Headlease. These safety checks are self-evidently carried out to comply with the provisions of statutes, statutory instruments, rules, orders or regulations "whether the same are to be complied with by the Landlord the Tenant or the occupier".

59. As to s.19(2) of the 1985 Act, the landlord only has to act reasonably in making its estimates. The actual costs for rubbish clearance, internal or external repairs incurred are irrelevant as part of any s.19(2) consideration. Although no specific evidence was given about the budgetary process, there was plainly an individual assessment of the expected costs to be incurred during the 2022-23 service charge year, as can be seen from the previous year's budget. The suggestion that no provision ought to be made for fire door surveys is unsustainable – even if similar surveys had also been carried out in 2021-22. Post-Grenfell, fire door

surveys have become a familiar and routine feature of service charge expenditure, and for the immediate future it may be prudent to make provision for possible additional inspections. It is also not unreasonable to provide for safety lighting to be checked by specialists (not simply the managing agents). Some of these arguments may be relevant to consideration of the 2022-23 service charges at year end under s.19(1) of the 1985 Act. But they are not relevant to the 2022-23 interim service charges at this stage.

60. No challenge is made to other elements of the 2022-23 interim service charges. The tribunal therefore finds that each applicant is liable to pay the respondent an interim service charge of £3,220 for the 2022-23 service charge year by two equal half-yearly payments of £1,610 on 1 January and 1 July 2023[2].

s.20C of the 1985 Act

61. The applicants ticked the box on the application form for making an application under s.20C of the 1985 Act. Section 20C provides:

> "20C.— **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 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.

62. The tribunal is conscious this is not a conventional costs jurisdiction, in that it is assumed the respondent has a contractual right to its costs of the proceedings under the terms of the Lease. Moreover, the applicants have only succeeded in relation to a relatively minor item of cost. There is nothing in the respondent's conduct of the proceedings that may be criticised. It has been forced to incur significant costs in meeting a challenge which has largely failed. The tribunal makes no order for costs under s.20C of the 1985 Act.

Judge Mark Loveday

8 March 2024

[2] Under clause 3.1, rent is payable by half-yearly instalments on 1 January and 1 July in each year. Para 3 of Sch.3 provides that interim service charges are payable on each day the rent is due.

Appeals

1 A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

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

3 If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4 The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.