



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

**Case reference** : **LON/00BJ/LSC/2023/0368**

**Property** : **Flat 5 Coalbrook Mansions London  
SW12 9RJ**

**Applicant** : **Rocktaste Limited**

**Representative** : **Mr A M Mukadam**

**Respondent** : **Bourneheights Limited**

**Representative** : **Sandrove Brahams & Associates**

**Type of application** : **For the determination of the liability to  
pay service charges under section 27A  
and costs under section 20C of the  
Landlord and Tenant Act 1985 and costs  
under paragraph 5A Schedule 11  
Commonhold and Leasehold Reform  
Act 2002.**

**Tribunal members** : **Judge Pittaway  
Mr A Thomas MRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of hearing** : **7 March 2024**

**Date of decision** : **24 March 2024**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The Tribunal finds that Bourneheights Limited is the freeholder of the Property and that Rocktaste Limited is the leaseholder of Flat 5.
- (2) The Tribunal makes the determinations in relation to the service charge as set out under the various headings in this Decision.
- (3) The Tribunal makes an order under section 20C Landlord and Tenant Act 1985 (the '**1985 Act**') that landlord's costs incurred in connection with the proceedings are not to be included in the amount of service charge paid by the applicant.
- (4) The Tribunal makes an order pursuant to paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 (the '**2002 Act**') extinguishing any liability on the applicant to pay an administration charge in respect of litigation costs

## **The Background**

1. The applicant seeks a determination pursuant to s.27A of the 1985 Act as to the amount of service charges payable by the applicant in respect of the service charge years 2017 to 2022. The application refers to outstanding service charge of £6,178.60 claimed by the respondent. The applicant also seeks an order under s.20C of the 1985 Act excluding the landlord's costs from the service charge and an order under paragraph 5 of Schedule 11 of the 2002 Act extinguishing any liability on the applicant to pay an administration charge in respect of litigation costs.
2. Directions were issued on 16 October 2023 and subsequently amended on 24 January 2024, 8 February 2024 and 19 February 2024 to allow the respondent to comply with them.
3. The directions required the respondent to provide the applicant with all relevant service charge accounts and estimates for the years in dispute together with demands for payment and details of any payments made. The respondent only provided expenditure workings and related invoices for the years 2019 and 2020. It provided no evidence of the expenditure charged by way of service charge for the years 2017, 2018, 2021 and 2022, or the breakdown of the service charge for those years.
4. The applicant was directed to provide the respondent with a schedule setting out the items in dispute, why disputed and the amount the applicant would pay, any alternative quotes, a statement of case and any relevant witness statements. This it did, to the extent that it could, by 31 January 2024, as directed.

5. The respondent was directed to provide its response to the schedule, copies of relevant invoices, its statement of case and any witness statements. The respondent did not complete the schedule as directed. The only statement of case provided by the respondent is contained in a witness statement of Mr Yehuda Bloom of Sandrove Brahams & Associates (**'SBA Property Management'**) dated 15 January 2024 with exhibits.
6. On 27 February 2024 Brady, then acting for the respondent requested a postponement of the hearing which was listed to be heard on 7 March. By an order dated 26 February 2024 the Tribunal had directed that the hearing set for 7 March remain as listed as the respondent had already been given time to comply with the provision of information in accordance with the Directions. The order reminded the respondent that it remained under an obligation to comply with the directions and that the Tribunal might refuse to admit late documents and might make adverse inferences in respect of matters where documents were submitted out of time or not produced.

### **The hearing**

7. The applicant was represented by Mr Mukadam at the hearing, with Dr Jamil attending as an observer.
8. Neither the respondent nor its representatives were present at the time the hearing was listed to start. The clerk to the Tribunal contacted Brady, solicitors to the respondent, who advised him that they were not attending, having advised their client of the effect of such non-attendance. Brady subsequently e mailed the Tribunal (at 10.12 am) to advise it that they had sought instructions from their client following the order of 28<sup>th</sup> [sic] February but had received no response. They confirmed that they did not propose to attend the hearing or make representations as they were without instruction or documentation. They requested that they be removed from the record as acting on behalf of the respondent.
9. The clerk to the Tribunal then contacted SBA Property Management and was advised that Mr Bloom was unavailable.
10. The Tribunal was satisfied that the respondent had had notice that the hearing was due to take place on 7 March but had elected not to attend nor to be represented at the hearing. The hearing proceeded in the absence of the respondent.

### **The background**

11. The property which is the subject of this application is described in the application as a one-bedroom flat in a mansion block (the **'Building'**). During the hearing the applicant confirmed to the Tribunal that the

Building contains 31 flats and two shops. The Tribunal was referred to photographs of the Building and surrounding area as evidence that there is no guttering at the Building and that it does not have a garden.

12. The applicant holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, if appropriate.
13. The applicant is seeking a determination as to the reasonableness of various sums charged to it by way of service charge in the years 2017 to 2022.

### **The Tribunal's determinations and reasons.**

14. The Tribunal had before it a bundle of 384 pages provided by the applicant.
15. The Tribunal heard the evidence and submissions from Mr Mukadam. and considered the documents provided to it. It has made its determinations on the issues identified below after considering Mr Mukadam's oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.
16. The Tribunal has not considered those items on the applicant's schedule which Mr Mukadam submitted to the Tribunal the applicant was no longer challenging.
17. In reaching its decisions the Tribunal has had regard to the fact that the respondent has not complied with the Tribunal's directions. In particular it did not provide relevant service charge accounts for the years 2017, 2018, 2021 or 2022, or copies of the relevant invoices relating to the matters disputed by the tenant in its schedule. As stated in its directions failure by the respondent to comply with directions may result in the Tribunal determine issues against it in accordance with rules 9(7) and (8) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
18. The determination does not refer to every matter raised, or every document the Tribunal reviewed or took into account in reaching its decision. However, this does not imply that any points raised or documents not specifically mentioned were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, it was considered by the Tribunal.

### **The identity of the freeholder and the leaseholder of Flat 5.**

19. Mr Mukadam had queried whether Bourneheights Limited was the freeholder of the Property given that the lease was granted by Urbanlake

Limited and that details of the lease of Flat 5 did not appear on Bourneheights' registered title. If it was not the freeholder he submitted that the invoices for the service charge he had received did not include the address and contact details of the freeholder.

### **The Tribunal's decision**

20. The Tribunal finds that Bourneheights Limited is the freeholder of the Property and that Rocktaste Limited is the leaseholder of Flat 5. The details of the freeholder on the service charge invoices is therefore correct.

### **Reasons for the tribunal's decision**

21. The applicant's bundle contains official copies for freehold title TGL196070 dated 18 July 2023. These show the registered proprietor of the freehold of Coalbrook Mansions SW12 9RJ to be Bourneheights Limited.

22. The bundle also contains official copies for the leasehold title of Flat 5, dated 21 August 2023, which show that Rocktaste Limited is the registered proprietor of the leasehold title held under the lease dated 9 August 2000.

### **Insurance premiums**

23. The applicant was challenging the reasonableness of the insurance premiums charged by the respondent in each of the service charge years in question. These were

|        |            |
|--------|------------|
| • 2017 | £7,118.29  |
| • 2018 | £7,947.20  |
| • 2019 | £8,205.38  |
| • 2020 | £9,846.25  |
| • 2021 | £7,877.16  |
| • 2022 | £11,142.60 |

24. The applicant referred the Tribunal to the offer made by the respondent by e mail on 9 December 2020 to reduce the premium being charged for 2020 by 20%. Mr Mukadam also drew the Tribunal's attention to the fact that while the offer had been made the service charge account for that year charged the premium at the undiscounted amount of £9,846.25.

25. Mr Mukadam submitted that it would be reasonable to apply a similar 20% discount to the insurance premium charged in each year.

### **The tribunal's decision**

26. The tribunal determines that it is reasonable to reduce the insurance premium charged by the respondent in each year by 20%.

### **Reasons for the tribunal's decision**

27. In the absence of any evidence from the respondent, and given its preparedness to discount the premium by 20% in 2020 the Tribunal finds it reasonable to discount the premium by 20% in each of the years in question.

### **Common parts cleaning**

28. The applicant challenged the reasonableness of the charges for the common parts cleaning in each of the years in question. These were

- 2017            £6,374
- 2018            £7,985
- 2019            £7,520
- 2020            £11,727
- 2021            £7,150
- 2022            £6,199.06

29. Mr Mukadam gave evidence that during the period in question the common parts cleaning had been undertaken by the tenant of Flat 27. Mr Mukadam submitted that the invoices provided by the respondent to justify the charges in 2019 and 2020 appeared to have been altered, and inflated after their creation.

30. Mr Mukadam submitted that a reasonable monthly cleaning charge would be £450 per month, namely £5,400 per annum. From Mr Mukadam's evidence it would appear that the new cleaner makes no extra charge for any necessary drain clearance, whereas the previous cleaner made an additional charge for this service, and charged for gardening.

### **31. The tribunal's decision**

32. The Tribunal find that in each year in question a yearly charge of £5,670 is reasonable for common parts cleaning.

### **Reasons for the tribunal's decision**

33. The Tribunal is unable to determine whether the invoices have been altered after the event as submitted by Mr Mukadam. It does not have the necessary IT expertise and there was no IT expert giving evidence. It does however note some unexplained discrepancies on the face of certain of the invoices. For example that dated 31<sup>st</sup> March 2020 refers to 'Invoice for cleaning for the month of September 2019'.

34. A monthly charge of £450, accepted by Mr Mukadam as reasonable, is consistent with the standard monthly charge in the invoices for 2020 actually provided by the respondent and the Tribunal finds that this is a reasonable standard monthly charge in each of the years.
35. The invoices for common parts cleaning for 2020 in the bundle invoice for additional costs over and above the monthly charge of £450. By way of example the invoice for July 2020 charges for drain clearance and gardening (£45) 'parapet edge' (£65) disposal of items dumped by the bins (£20) replacing fluorescent tubes (£45), assisting with carpet cleaning (£20) and additional cleaning due to Covid 19 (£220) and additional cleaning of all rubbish bins (£225).
36. In the absence of evidence from the respondent it is difficult for the Tribunal to determine whether these extra costs were incurred. The Tribunal finds that there should be no charge for gardening. The photographs in the bundle confirm Mr Mukadam's submission that there is no garden. The Tribunal finds, in the absence of evidence to the contrary, that some of the charges should properly fall within the standard monthly charge, such as assisting with carpet cleaning, which would appear to have been undertaken by someone else. The Tribunal finds that it would not have been unreasonable for the cleaning charges in 2020 to have been greater if, as the invoices indicate, the cleaner was undertaking daily cleaning by reason of Covid 19. The invoices in the bundle suggest that there was such an additional charge, and for cleaning the rubbish bins. However the Tribunal heard evidence from Mr Mukadam that there was no extra Covid 19 cleaning in 2020, and in the absence of any evidence from the respondent to the contrary it accepts this evidence.
37. The Tribunal finds that it is appropriate to add a sum to the standard monthly charge to take into account the likelihood that in any year the cleaner will have incurred costs that are outside the normal monthly cleaning charge (for example replacing fluorescent tubes as occurred in July 2020). Having regard to the need to deal with this in a way which is proportionate and in the absence of further evidence the Tribunal has taken a pragmatic approach and on a commonsense basis finds it appropriate to add 5% to the annual cleaning charge of £5,400 to cover such items.

### **General repairs**

38. The applicant challenged the reasonableness of the charges for general repairs in each of the years in question. These were

|        |            |
|--------|------------|
| • 2017 | £4,562.14  |
| • 2018 | £5,890.0   |
| • 2019 | £5,750.88  |
| • 2020 | £39,652.00 |

- 2021            £14,417.59
- 2022            £16,683.52

39. Mr Mukadam submitted that there had been an unexplained increase in this charge between 2019 and 2020.

40. In particular Mr Mukadam challenged the accuracy and the reasonableness of the invoices from Bourne Maintenance for 2019 and 2020.

41. Mr Mukadam drew the Tribunal's attention to the fact that two invoices from Bourne dated 17 January 2020 had the same invoice number and referred to the same work but were for different amounts (differing by £25).

42. Mr Mukadam submitted that some of the Bourne invoices were for work that should be part of standard management (e.g. investigating falling debris from Flat 19 for which £184 was charged).

43. Mr Mukadam submitted that a number of the Bourne invoices related to scaffolding that had been erected at the Building. He submitted that this was left up for longer than was necessary given the nature of the work being carried out. Generally Mr Mukadam challenged the Bourne invoices as being too high.

44. Mr Mukadam gave evidence that he was unaware of Bourne having visited the Building in 2021 or 2022.

45. Mr Mukadam submitted that the invoices for 2017 to 2019 inclusive should be reduced by 25%, that the invoice for 2020 should be reduced to £12,000 and that the invoices for each of 2021 and 2022 should be reduced by 33%.

**The tribunal's decision**

46. The Tribunal finds, on the evidence before it, that a reasonable charge for 2020 is £21,000.

47. The Tribunal find, given the lack of evidence from the respondent as to what if any repairs were carried out in the other years (except 2019), that it is appropriate to reduce the charge for general repairs in 2017 to 2019 by 25%, and for general repairs in 2021 and 2022 by 33% as proposed by Mr Mukadam.



### **Reasons for the tribunal's decision**

48. There is no apparent correlation between the invoices supplied by the respondent for the years 2019 and 2020 and the sums demanded by way of service charge for these years.
49. The bundle before the Tribunal contained four invoices from Bourne Maintenance for 2019, one issued in October (£1,481) and three between 11 and 18 November for a total of £11,811. These invoices amount to more than the £5,750.88 charged by the respondent for this head of service charge in 2019.
50. The invoice issued in October referred 'clearing of gutters'. The Tribunal find from the photographic evidence provided by Mr Mukadam that there are no gutters at the Building.
51. The Tribunal finds that the two invoices from Bourne dated 17 January 2020 are duplicates. Otherwise there are 14 invoices from Bourne in the bundle in respect of 2020 totalling £27,419.28, which together with the invoice of 17 January 2020 (taken at its lower sum of £1,350) make a total claimed in respect of work by Bourne of £28,769.28.
52. In the absence of the respondent at the hearing the Tribunal is unable to reconcile the sums demanded by the respondent by way of service charge for this item in any of the service charge years. This is because for all the years except 2019 and 2020 because there are no supporting invoices, and for 2019 and 2020 the invoices do not correlate to the service charge demanded for those years.
53. The invoices for 2019 and 2020 do indicate that Bourne was carrying out work during those years although the sums charged may not be reasonable. The Tribunal finds that an element of these invoices should be allowed.
54. In the absence of any evidence from the respondent the Tribunal has adopted the reductions to the sums charged for the years 2017 to 2018 and 2021 to 2022 proposed by Mr Mukadam to be reasonable. On the confused evidence from the respondent as to what charges were incurred in 2019 the Tribunal finds it appropriate to accept Mr Mukadam's submission that the charge in this year should also be reduced by 25%.
55. It finds that it is appropriate to accept that the general repair charge for 2020 should be the unchallenged part of the service charge for that year, namely £10,882.72 plus an element of the sums charged by Bourne. The Tribunal find Mr Mukadam's suggestion of £12,000 to be too low and adopting a pragmatic and commonsense approach finds a reasonable general repair charge for 2020 to be £21,000.

### **Entry phone maintenance.**

56. The applicant challenged the reasonableness of the charges for entry phone maintenance in each of the years in question. These were

- 2017            £2,485.08
- 2018            £1,270
- 2019            £1,070.81
- 2020            £800
- 2021            £1,880
- 2022            £1,212.36

57. Mr Mukadam gave evidence that from the invoices supplied it would appear that the entryphone broke down frequently but that his tenant had never complained to him of it breaking down.

### **The tribunal's decision**

58. The Tribunal finds that a reasonable charge for the entry phone in each of the years 2017, 2018, and 2020 to 2022 to be £800, by way of an annual servicing charge. For 2019 the Tribunal finds the sum charged by the respondent of £1,070.81 to be reasonable.

### **Reasons for the tribunal's decision**

59. The bundle before the Tribunal contained invoices from C Moore CCTV Security & Shutters Ltd for 2019. Some of the invoices relate to the repair to individual flats. Clause 5(5)(a)(m) of the Lease provides that the Landlord shall maintain, if installed '*an electric door entry system serving the main entrances of the Building*' and the cost of such maintenance is recoverable by way of service charge under the terms of the Fifth Schedule to the Lease. Paragraph (d) of the First Schedule to the Lease includes in the demise '*All conduits which are laid in any part of the Building and serve exclusively the Flat*'.

60. The Tribunal finds that the individual flat tenants are liable to pay for the cost of maintaining such of the entry phone elements that exclusively serve the individual flats.

61. The total invoices for 2019 provided (ignoring duplicate invoices included in the bundle) amount to £2,525.89, of which £1,455.08, related to individual flats, leaving invoices for recoverable work of £655.08 (for a new lock) and the annual service of £800, totalling £1,455.08 which the Tribunal find to be a reasonable charge for 2019

62. In the absence of any evidence from the respondent as to what, if any, additional charges to the annual service were charged in the years other

than 2019 the Tribunal find an annual servicing charge of £800 to be reasonable.

### **Fire Equipment maintenance**

63. The applicant challenged the reasonableness of the charges for fire extinguisher maintenance in each of the years in question. These were



64. Tribunal heard evidence from Mr Mukadam that there are 18 extinguishers at the Building. He also gave evidence that he has knowledge of another building with 28 flats where the annual maintenance charge for fire equipment was between £1500 and £1600 per annum. He submitted that a reasonable cost for this service would be between 50 and 60% of the sums charged by the respondent.

### **The tribunal's decision**

65. The Tribunal find that a charge in all the years of £1500 to be reasonable.

### **Reasons for the tribunal's decision**

66. The only evidence provided by the respondent was invoices from RES Fire Protection Engineers ('RES') for the year 2019. These included details of its visit to the Building in May 2019 when it invoiced £250 for 'the annual service of MPSD & 3Hr EL test' and £124.50 for the supply of certain parts. In November 2019 it undertook a communal fire door survey & report for which it invoiced £672. Each of the invoices is accompanied by a description by RES of the work it undertook and the cost of any fittings replaced. These invoices, with VAT, total £1,109.40. This is less than the £1500-£1600 proposed by Mr Mukadam as reasonable. The Tribunal therefore accepts his submission as to what he considers to be a reasonable charge for 2019.

67. In the absence of any evidence from the respondent in respect of any of the other years the Tribunal also accept Mr Mukadam's proposed figure as reasonable.

### **Lighting maintenance**

68. The applicant challenged the reasonableness of the charges for lighting maintenance in each of the years in question. These were



69. The bundle included an invoice from RES. the year 2019. In February 2019 it attended the Building and tested and replaced 7 Thorn 5Ft emergency light battens and 3 LED legend exit boxes, charging a total of £1,927.

70. Mr Mukadam did not challenge the charge it made for installing and testing the lights and signs of £450 plus VAT. Mr Mukadam challenged the reasonableness of its charge for the light battens, charged at £148 ex VAT. Mr Mukadam included in the bundle an alternative quote for these at £91.95 which he had obtained in 2024. He also challenged its charge for the LED light battens at £40 ex VAT each. He included in the bundle a quote at £27.70 each.

71. Mr Mukadam submitted that the charges for 2017 and 2019 were disproportionately high and should be brought into line. He invited the Tribunal to find a reasonable charge to be the average of the charges for all of the years, excluding 2017 and 2019.

### **The tribunal's decision**

72. The Tribunal finds the following charges to be reasonable for each of the years in question.



### **Reasons for the tribunal's decision**

73. If the Tribunal adopted Mr Mukadam's submission that the charge for each year should be an average of the charges for years 2017, 2018, 2020 - 2022 this would result in a charge for each of those years of £700. This

is in excess of the sums actually claimed by the respondent for 2021 and 2022. The Tribunal do not find it appropriate to adopt this approach.

74. The Tribunal accepts that the quotes that Mr Mukadam provided show that the light battens and LED exit signs replaced in 2019 might have been obtained more cheaply but that does not of itself make the charge actually incurred unreasonable. There is no evidence before the Tribunal to suggest that RES inflated the cost of these items. The cost of installation and testing was not challenged by Mr Mukadam. The Tribunal therefore finds the a charge of £1927 in 2019, based on the only relevant invoice provided by the respondent, to be reasonable.

75. Mr Mukadam did not challenge the charges for 2021 and 2022 and the Tribunal finds these to be reasonable.

76. Mt Mukadam did not challenge the sums charged in 2018 and 2020. He was prepared to allow these to be used to calculate an average. The Tribunal therefore finds these sums to be reasonable.

77. In the absence of any evidence from the respondent as to why the charge for 2017 was double the charge for the next year, and more than the charge shown to have been incurred for 2019 the Tribunal have adopted a pragmatic approach and determine that a charge of £1,200 for 2017 to be reasonable, based on the sums charged for 2018 and 2020.

### **Legal and/or survey fees**

78. The applicant challenged its liability to pay and the reasonableness of the charges for legal and/or fees in the following years. These were

- 2017            £90
- 2018            £490
- 2019            £490
- 2020            £79
- 2021            £15,457.20

79. Mr Mukadam submitted that the only invoice in respect of legal fees that had been provided by the respondent was one dated 22 November 2019 from Sandrove Brahams Services Ltd for £25 for undertaking a land registry search in relation to 6 Coalbrook Mansions.

80. Mr Mukadam referred the Tribunal to the invoice from Emmerson Barnett dated 28 February 2019 for £960 for preparing a condition report and ten year planned maintenance programme. He submitted that the applicant had never seen the survey and that there was a discrepancy between the invoice and the sum demanded by way of service charge for this head of charge in 2019.

81. Mr Mukadam referred the Tribunal to an invoice from Trident Building Consultancy Limited dated 30 September 2020 in the sum of £5,412.24 headed 'Project Management' for preparing a detailed specification of works with budget costs for external redecoration and repairs at Coalbrook Mansions. He submitted that until provided by the respondent in connection with the application the applicant had not seen this invoice.

### **The tribunal's decision**

82. The applicant is not liable to pay its contribution to the sums for legal and survey fees demanded in the years 2017, 2018, 2020 or 2021.

83. The Tribunal finds the sum of £960 for the Emmerson Barnett survey in 2019 to be reasonable.

### **Reasons for the tribunal's decision**

84. There is no evidence before the Tribunal of any legal or survey fees having been incurred in the years 2017, 2018 or 2021. In the absence of any explanation from the respondent as to what the sums demanded in these years relate, in particular the £15,457.20 demanded in 2021, the Tribunal find that the applicant is not liable to pay its share of these sums. There is no evidence before the Tribunal that any of the sums have been incurred in the provision of services to which the tenant is obliged to contribute under the terms of its lease.

85. The Tribunal find that the £25 charge incurred in 2019 is not a service charge item as it relates to Flat 6 only.

86. That the applicant had not seen the survey from Emmerson Barnett does not make the fee unreasonable. However in the year to which this fee relates the respondent is only seeking to recover £490, not £960. There is no evidence before the Tribunal as to what £490 relates and the Tribunal find that the applicant is not liable to pay this sum. The applicant did not challenge the reasonableness of the invoice for £960 not deny that it had seen it previous to the application being made. The Tribunal therefore finds the fee of £960 to be reasonable.

87. The only invoice before the Tribunal for 2020 is that from Trident for £5,412.24, in a year in which the respondent is only seeking to recover £79. The Tribunal finds on the evidence before it that the applicant was only told of the additional charge of £5,412.24 for that service charge year after it made its application to the Tribunal, i.e. after October 2023.

88. Section 20B of the 1985 Act provides that,

*‘(1)If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2) ), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.*

*(2)Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.’*

89. Accordingly the applicant is not liable to pay a share of this invoice, as it was not demanded within 18 months of the sum being incurred. Nor is the applicant liable to pay £79 for which no explanation has been given.

### **Fees for Coalbrook Mansions Management Co**

90. The applicant challenged the liability to pay for these fees under the lease, stated to be incurred in connection with the preparation of the accounts of that company.

91. Mr Mukadam submitted that Coalbrooke Mansions Management Ltd had no function in relation to the Building. It does not manage the Building and it does nothing in relation to the Building.

### **The tribunal’s decision**

92. The applicant is not liable to pay a contribution to the fees for Coalbrooke Mansions Management Limited by way of service charge.

### **Reasons for the tribunal’s decision**

93. The fees of Coalbrooke Mansions Management Limited are not a service charge item under the lease of the Property. Clause 5(5) of the Lease sets out the items in respect of which the landlord may charge service charge. Clause 5(5)(g) contemplates the employment of a managing agent but Coalbrooke Mansions Management Limited does not perform this function. The Tribunal accepts Mr Mukadam’s evidence that the company has no function in relation to the Building.

### **Refuse bin hire**

94. The applicant challenged the reasonableness of the charges for refuse bin hire on the basis that it would be cheaper to buy bins for the Building rather than rent them from the local authority. Mr Mukadam did not challenge the reasonableness of the rental sums themselves, but

submitted that the life of a bought bin would be such that it is a more economic solution than renting bins.

95. Clause 5(5)(q) of the Lease requires the landlord *‘to maintain and renew as required the communal dustbins retained for the Building’* and clause 5(5)(r) requires the landlord *‘to act fairly and reasonably in carrying out their obligations under Clause 5 hereof and at all times to manage and maintain the Building economically and efficiently’*.

### **The tribunal’s decision**

96. The Tribunal finds the charge for bin rental to be reasonable.

### **Reasons for the tribunal’s decision**

97. Provided that it is economic and efficient to do so the landlord may elect to rent rather than buy dustbins. The evidence from the applicant before the Tribunal is that it is not economic to rent the dustbins. However the Tribunal finds that there is insufficient evidence before it to satisfy it that renting the bins is a less efficient means of providing the service.

98. Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 requires the Tribunal to deal with matters proportionately. Given the annual cost of bin rental the Tribunal finds, in the interests of proportionality, that the charges are reasonable.

### **Gutter maintenance**

99. The applicant challenged the liability to pay for gutter maintenance. The charges for gutter maintenance identified in the Scott Schedule are

|        |           |
|--------|-----------|
| • 2019 | £2,122.20 |
| • 2020 | £4,200.00 |
| • 2021 | £630      |
| • 2022 | £1,045.42 |

100. At the hearing Mr Mukadam submitted that there should be no liability to pay for gutter maintenance on the basis that the Building has no gutters, only downpipes, and referred the Tribunal to photographs in the bundle to support this submission.

### **The tribunal’s decision**

101. The Tribunal finds that the charges claimed are unreasonable and therefore not payable.



### **Reasons for the tribunal's decision**

102. In the cleaning invoices for 2019 there is a monthly charge for drainage clearance of £45 per month, but that otherwise the respondent has provided no invoices to substantiate its charges.
103. On the evidence before it the Tribunal finds that there may be gutters at the Building and there are drains which might require cleaning, but that this cleaning was not undertaken. It finds that such cleaning was not undertaken monthly as suggested by the invoices before it, and that those invoices in any event do not equate to the sums claimed for gutter maintenance.

### **Pest control**

104. The applicant challenged the reasonableness of the charges for pest control in the following years.

- 2019            £1,320
- 2020            £2,986.20
- 2021            £1,560
- 2022            £2,066

105. For 2019 the respondent had provided three invoices from The Pied Piper, each in the sum of £344.40. Mr Mukadam submitted that these were not recoverable by way of service charge as they all related to work to specific individual flats (Flats 1, 2 and 3).

### **The tribunal's decision**

106. The Tribunal find none of the charges to be recoverable by way of service charge.

### **Reasons for the tribunal's decision**

107. The respondent has provided no invoices or any evidence to substantiate these claims or that they are chargeable to the service charge and not to specific flats.

108. **Management fees**

109. The applicant challenged the reasonableness of the following charges for management fees.

- 2019            £12,040.22

- 2020 £12,985.00
- 2021 £13,613.24
- 2022 £14,718.92

110. Mr Mukadam submitted that the charge in 2019 was £388 per flat which was reasonable if the managing agents were undertaking a good job. By 2022 the cost per flat had risen to £475 per flat. He submitted that a reasonable charge per flat, if the agents were doing a good job should be in the region of £350-£450. Mr Mukadam made no submission that the fee here should be reduced for poor management.

**The tribunal’s decision**

111. The Tribunal finds the management fee for 2019 to be reasonable but reduce the fee for the years 2020 to 2022 to £400 per flat.

**Reasons for the tribunal’s decision**

112. The Tribunal has had regard to the evidence before it indicating that the management was not as good as it might be, not least the failure to provide invoices in a timely fashion.

113. The Tribunal has also had regard to Mr Mukadam’s submission.

**Garden maintenance**

114. There were charges for ‘garden maintenance’ in 2020-2022 of £155, 45 and £110 respectively.

115. Mr Mukadam gave evidence that there is no garden.

**The tribunal’s decision**

116. The applicant is not liable to pay any contribution to these sums.

**Reasons for the tribunal’s decision**

117. The respondent provided no evidence to substantiate these sums and the Tribunal finds there is no garden so no such sums should be charged.

**Chimney refurbishment**

118. Mr Mukadam challenged the charge to ‘chimney refurbishment’ in the sum of £733.19, that did not appear in his Scott Schedule but which was referred to in the Statement of Account dated 21 August 2023 provided by ‘sba property management’, which is in the bundle. He drew the

Tribunal's attention to various invoices which had been provided by the respondent for 2020 which showed that when works were undertaken to the chimneys they were undertaken on a flat by flat basis and therefore should not form of the service charge. He submitted that any charge for chimney refurbishment should be removed from his service charge account , as should the legal fees referred to in that statement, which he submitted related to the non payment of these charges.

**119. The tribunal's decision**

120. The applicant is not liable to pay the charges for chimney refurbishment and attendant legal fees

**Reasons for the tribunal's decision**

121. The respondent has provided no invoice for either the chimney refurbishment or invoices to support the legal fees.

**122. Historic insurance and creditors and accruals**

123. Mr Mukadam submitted that these item, which appear in his Scott Schedule are items which are shown on the accounts. It appears that these are sums that have been deducted from the reserve on the balance sheet.

**The tribunal's decision**

124. The tribunal makes no finding on these matters

**Reasons for the tribunal's decision**

125. These are matters that are outside the Tribunal's jurisdiction under s27A of the 1985 Act.

**Application under s.20C**

126. In the application and at the Hearing Mr Mukadam applied for an order under section 20C of the 1985 Act. Having heard the submissions from Mr Mukadam, and taking into account the non-attendance of the respondent at the Hearing and its determinations above, the Tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.

**Application under paragraph 5a of Schedule 11 of the 2002 Act.**

127. It may be that administration costs under paragraph 5A of Schedule 11 of the 2002 Act are not recoverable under the terms of the Lease. However, for the avoidance of doubt and in the circumstances the Tribunal determines that no administration charge is payable by the applicant under paragraph 5A of Schedule 11 of the 2002 Act.

Name: Judge Pittaway

Date: 24 March 2024

**Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

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

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

**Appendix**

**Landlord and Tenant Act 1985**

**S 20 Limitation of service charges: consultation requirements**

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

(a) complied with in relation to the works or agreement, or

(b)except in the case of works to which section 20D applies, dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal.

(2)In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3)This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4)The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a)if relevant costs incurred under the agreement exceed an appropriate amount, or

(b)if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5)An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—

(a)an amount prescribed by, or determined in accordance with, the regulations, and

(b)an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6)Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7)Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

## **27A Liability to pay 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.