



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

**Case reference** : **LON/00Bk/LSC/2021/0015**

**Property** : **Flat 3, 168 Sutherland Avenue, London,  
W9 1HR**

**Applicant** : **Ms Kim Ishola**

**Representative** : **In person**

**Respondent** : **Oakleaves Association of Freeholders  
Limited**

**Representative** : **Mr Seb Oram, counsel, instructed by  
Dean Wilson LLP**

**Type of application** : **Applications made under section 20C of  
the Landlord and Tenant Act 1985, and  
paragraph 5A of Schedule 11,  
Commonhold and leasehold Reform Act  
2022, in respect of a determination  
under section 27A of the Landlord and  
Tenant Act 1985**

**Tribunal members** : **Judge Tueje  
Judge Pittaway  
Mrs A Flynn MRICS**

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

**Date of hearing** : **23<sup>rd</sup> and 24<sup>th</sup> October 2023**

**Date of decision** : **22<sup>nd</sup> March 2024**

---

## DECISION ON COSTS

---

### **Decisions of the Tribunal**

- (1) The application for orders under section 20C of the Landlord and Tenant Act 1985 and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 are refused for the reasons set out below.

### **The Background**

1. In her application under section 27A Ms Ishola also applied for orders under section 20C of the Landlord and Tenant Act 1985 and under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.
2. In a reviewed decision dated 28<sup>th</sup> February 2024, the Tribunal's determination included the following decisions:
  - 2.1 Under section 27A, Ms Ishola is not liable for, nor are service charges payable by her, for the year ending 2017.
  - 2.2 Service charges are payable by Ms Ishola for the service charge years 2018, 2019, 2020 and up to 27<sup>th</sup> May 2021.
3. In an e-mail sent to the Tribunal on 4<sup>th</sup> December 2023, Ms Ishola set out grounds in support of the section 20C application, which are summarised as follows:
  - 3.1 Questioning whether the lease allowed the Respondent to recover its legal costs;
  - 3.2 Challenging the reasonableness of the Respondent's legal costs;
  - 3.3 The Respondent intentionally made false claims including maligning Ms Ishola, and without explanation, producing a last minute unsubstantiated document;
  - 3.4 Disputing the Respondent's contention that there was a leaseholders' meeting in 2021; and
  - 3.5 She brought the application due to the Respondent's unreasonableness, dishonesty and its disregard for the law.
4. The Respondent's written submissions opposing the applications under section 20C and paragraph 5A are dated 26<sup>th</sup> February 2024.

## **Reasons for the Tribunal's Decision on the Section 20C Application**

5. In exercising our discretion under section 20C we have taken into account the parties' arguments, as well as the following.
  - 5.1 Except for service charges relating to 2017, the Respondent has successfully opposed Ms Ishola's application.
  - 5.2 The Respondent did not advance any substantial legal argument relating specifically to the 2017 service charges. So although the Respondent was unsuccessful on that issue, the 2017 service charges are unlikely to have materially affected the amount of the legal costs the Respondent incurred.
  - 5.3 It was reasonable for the Respondent to oppose the application in respect of the service charge years 2018 up to 27<sup>th</sup> May 2021, and also taking into account Ms Ishola alleged there had been financial mismanagement, which allegations we concluded were unfounded.
  - 5.4 When considering whether it is just and equitable to make a section 20C order, the fact that the Respondent is a lessee-owned company is relevant. Ms Ishola is one of seven leaseholders. The practical and financial consequences if we make a section 20C order is that despite being largely unsuccessful, Ms Ishola would not have to contribute to the Respondent's legal costs.
6. We now address the grounds of Ms Ishola's application in turn.
  - 6.1 We note the Respondent claims paragraphs 8, 11 and 12 of the Second Schedule to the lease make provision for recovering its legal costs.
  - 6.2 It is not part of the Tribunal's function when dealing with a section 20C application, to determine whether or not the landlord's legal costs are reasonable.
  - 6.3 The Tribunal's assessment regarding the credibility of Respondent's evidence is set out at paragraphs 93 and 94 of the reviewed decision. Those paragraphs also deals with the travelling schedule, which is the unsubstantiated document Ms Ishola refers to. Ms Ishola was allowed time to consider the contents of the schedule, and made no objection at the time to it being admitted as part of the Respondent's evidence. Ms Ishola's arguments on this point do not alter the relevant fact that most aspects of her application were unsuccessful.
  - 6.4 Whether, as Ms Ishola contends, a meeting took place in 2021, and if so, what was discussed and/or agreed, was not relevant to the subject-matter of the application. Accordingly, we made no finding on this point, so it is not an issue affecting our decision regarding the section 20C application.
  - 6.5 Broadly speaking, the Respondent has successfully opposed the substantial part of Ms Ishola's application. Although we found the 2017 service charges

were not payable, we found most of the disputed service charges were payable. We also consider dealing with the 2017 service charges would have made little if any difference to the amount of the Respondent's costs. Therefore, we do not consider Ms Ishola was justified in bringing the substantial part of her application.

### **Reasons for the Tribunal's Decision on the paragraph 5A Application**

7. Ms Ishola's 4<sup>th</sup> December 2023 reasons relate to the section 20C application only, and not to paragraph 5A of Schedule 11 to the 2002 Act.
8. We have had regard to *Ramjotton v Patel [2021] UKUT 19 (LC)*, which concluded that the same principles apply to applications made under paragraph 5A and section 20C. We also take into account that we have refused to make an order under section 20C, that Ms Ishola has not provided grounds to support an application under paragraph 5A, and the Respondent states there are no provisions in the lease allowing legal costs to be recovered as an administration charge.

**Name:** Judge Tueje

**Date:** 22<sup>nd</sup> 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).