



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

**Case Reference** : **LON/00AR/LSC/2023/0346**

**Property** : **Flat3 Wingrove Court, 33 Oak Street,  
Romford RM7 7BS**

**Applicant** : **Harford Management Limited**

**Representative** : **Leon Barnes, Director of Harford  
Management Limited**

**Respondent** : **Mrs Tracy Pang**

**Representative** :

**Type of Application** : **Transferred proceedings from the  
County Court to determine whether  
service charges are payable in  
accordance with  
Section 27A of Landlord and Tenant  
Act 1985**

**Tribunal Member(s)** : **Judge Tildesley OBE  
Ms S Phillips MRICS**

**Date and venue of  
Hearing** : **26 April 2024  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **21 May 2024**

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**DECISION**

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## **Summary of Decision**

The Tribunal determines that the Respondent is liable to pay the Applicant the sum of £1,141.01 in relation to the sums identified in the Claim issued on 26 October 2022 which fall within the Tribunal's jurisdiction. The Tribunal sets out its computation in Appendix One attached.

## **The Proceedings**

1. On 26 October 2022 the Applicant issued a Claim in the sum of £3,576.88 plus interest of £735.33 and a Claim Fee of £205 totalling £4,517.01 at the County Court Business Centre Online Civil Money Claims under Claim Number 341MC866. The sum claimed related to non-payment of ground rent, building insurance and service charges. On 21 November 2022 the Respondent submitted a response rejecting the claim and stated that she had paid £2,129.38 which she believed to be the correct amount.
2. On 21 August 2023 Deputy District Judge M Perry at Romford County Court transferred the proceedings to the Tribunal for determination.
3. On 22 September 2023 the Tribunal directed that the matters be listed for determination on 12 January 2024. The parties did not comply with the directions with the result that a case management hearing was held on 12 January 2024 when the Tribunal issued further directions for a hearing on 26 April 2024.
4. At the hearing on the 26 April 2024 Mr Barnes represented the Applicant. He supplied a letter dated 24 March 2016 from a director of Harford Properties Limited, the landlord, authorising Harford Property Management Limited to undertake all aspects of property management including the issue of all future demands, and the collection of insurance and service charges. Mr Barnes confirmed that Harford Property Management was authorised to act for Harford Properties Limited in these proceedings.
5. The Tribunal noted that the directions of 12 January 2024 questioned whether the Applicant was permitted under the terms of the lease or the management contract to issue the claim in its name. On 16 January 2024 the Applicant sent a letter to the Respondent requesting to change the name of the Claimant to Harford Properties Limited. The Tribunal has no jurisdiction to decide who is the correct Claimant in these proceedings. This is a matter which the parties must bring to the attention of the County Court.
6. The Respondent attended the hearing in person together with her sister, Ms Kamlan Pang. An interpreter was appointed to assist the Respondent in the proceedings.

7. The Applicant supplied the hearing bundle. The page numbers of the documents from the bundle referred to in this decision are in [ ].

## **Background**

8. The property is a one bedroom maisonette arranged over two floors in a block of four maisonettes. The block is located at the corner of Oak Street and Pretoria Road. The front of the block faces Oak Street. Each maisonette has its own front door and internal stairs. There are no communal areas within the building which is constructed of brick with half render on the exterior of the first floor and a pitched tile roof. The building was built around 1990. At the rear of the building is a communal garden and a parking area with six designated parking spaces, one for each maisonette, and two visitor spaces. The parking area is laid with tarmac, and screened from the garden by a hedge. Access to the car park area is gained from Pretoria Road, and is flanked by a brick wall of about two metres height with an opening for the entrance.
9. The Tribunal did not inspect the property. The parties supplied photographs which showed tall trees in the garden, evidence of rot in the wooden window frames, and a broken fence marking the boundary with an adjoining property.
10. The Respondent is the long leaseholder of 3 Wingrove Court, 33 Oak Street, Romford RM7 7BS under a lease dated 28 March 1991 and made between Peter Adams of the one part, and Tracy Yuk Mui Liu (the Respondent) of the other part for a term of 999 years from 25 September 1999 in consideration of a premium and a ground rent of £25 per annum.
11. Under Clause 4(3) of the lease, the Tenant (the Respondent) will pay to the Landlord by way of additional rent the Tenant's share of the annual maintenance cost. The amount of the Tenant's share is specified as one-quarter.
12. Under Clause 4(1)(b) of the lease:  
  
“ ‘Annual Maintenance Cost’ means the total of all sums actually spent by the Landlord in any Year in connection with the management and maintenance of the Property and shall without prejudice to the generality of the foregoing include :  
(i) The cost of procuring or providing any sums required in connection with the same where they exceed the monies for the time being held by the Landlord as Advance Payments  
(ii) The costs of and incidental to the performance by the Landlord of the covenants contained in sub-clauses (2) (3) (4) and (5) of Clause 5 of this Lease but excluding the cost of any repairs which are required to be covered by the policy of insurance provided for under Clause 5 (5)

(iii) The annual rentals or other expenditure involved in supplying and maintaining such communal television and/or radio aerial system as may from time to time be installed in the Building.

(iv) The costs of and incidental to compliance by the Landlord with every notice regulation or order of any competent local or other authority in respect of the Property or any part thereof.

(v) All fees charges and expenses payable to a solicitors accountant surveyor or architect or other professional or competent advisor whom the Landlord may from time to time reasonably employ in connection with the management and/or maintenance of the Property (but not in connection with lettings or sales of any of the flats in the Building or the collection of rents payable by any tenant thereof) and in or in connection with enforcing the performance and observance by the Tenant and all other tenants of the flats in the Building of their obligations and liabilities.

(vi) The Landlords Supervision fee (to be added annually to the Annual Maintenance Cost and not exceed 10% plus Value Added tax (if payable) of the Annual Maintenance Cost for any Year) in connection with the management and maintenance of the property”.

13. Clause 5 of the lease sets out the Landlord’s covenants. Subclauses 2, 3, and 5 are set out below. Clause 4(1)(b)(ii) above, permits the Landlord to recover from the Tenants the costs of performing the covenants under the subclauses:

“(2)(1) As often as may be necessary to maintain repair cleanse repaint redecorate and renew:

(a) the main structure of the Building including (but not by way of limitation) the foundations roofs and exterior and the load bearing walls;

(b) the drains pipes conduits and all devices for conveying rain water from the Building;

(c) the gas and water pipes conduits ducts sewers drains and electric wires and cables (including television and radio wiring and wiring and aerials) and all other installations in under or upon the Building and enjoyed or used by the Tenant in common with all or any of the other tenants or occupiers of the Building but excluding such installations and services as are incorporated in and exclusively serve the Premises

(d) the entrance ways paths and forecourts forming part of the Property and leading to the Building (including the boundary walls gates and fences of the Property and visiting parking spaces).

(2) The Landlord’s obligation hereunder does not extend to carrying out any repairs or to the making good of any damage for which the Tenant is responsible under Clause

3(11) Any such repair or making good will be done at the cost of the Tenant.

(3) So far as reasonably practicable to keep cleansed and in tidy condition the forecourts gardens grounds and all other the parts of the Property enjoyed or used by the Tenant in common with all or any of the other tenants or occupiers of the Building.

(4) *Not relevant to these proceedings.*

(5)(a) At all times during the Term to keep the Property (including the Premises and the Landlord's fixtures fittings apparatus and chattels in the Property) insured under a policy of insurance which complies with conditions described in this sub-clause against the perils specified in (e) below The Landlord will not be in breach of this sub-clause if the policy is vitiated by any act or default of the Tenant or the tenant or occupier of any other flat or premises in the Building

(b) To pay all premiums in respect of such insurance within fourteen days of their becoming due

(c) Whenever reasonably required to do so to produce to the Tenant a copy of any relevant policy of insurance and the receipt for the last premium

(d) A policy of insurance complies with the conditions of this sub-clause if it:

(i) is granted by such insurer of repute as the Landlord may select and

(ii) is granted in the names and for the respective interests of the Landlord the Tenant and the tenants of all other parts in the Building

(iii) insures the Property against loss and damage to its full reinstatement value

(iv) provides for the payment in the event of loss or damage to the Property caused by a peril specified in (e) .....

14. The machinery for the collection of the annual maintenance charge is set out in sub-clauses (4), (5), (6), (7), (8) and (9) of Clause 4. Essentially the Landlord is entitled to demand payments of such reasonable sums as the Landlord/Managing Agent consider appropriate on account on 25 March and 29 September in any one year. As soon as reasonably practicable after the 1 January in every year the Landlord shall provide the Tenant with a statement giving full particulars of the annual maintenance cost, and certifying the amount payable as the Tenant's share for the preceding year. On receipt of the statement the Tenant is required to pay a balancing payment if the amount of the annual maintenance charge exceeds the advance payments. If the advance payment exceeds the Tenant's Share for that year the balance may at the option of the Landlord be applied in or towards the payment of the Tenant's Share or any Advance Payments for the next or any other ensuing or earlier Year. The Landlord is obliged to keep a detailed account

of all expenditure to be included in the annual maintenance charge and ensure that a statement is prepared by an independent member of the Institute of Chartered Accountants. Within 21 days after receiving any such statement the Tenant is entitled on giving 14 days notice to inspect vouchers and receipts for items included in the statement. Finally the Landlord will use his best endeavours to maintain annual maintenance cost at the lowest reasonable figure consistent with due performance of his obligations under the lease.

15. The Tribunal summarises that under the lease, the Respondent is liable to contribute by way of service to the costs incurred by the Landlord for insuring and maintaining the building and garden. Further the Landlord is entitled to demand **on account** payment of service charges provided they are reasonable. The Landlord is required to provide the Respondent with a statement of account of its expenditure every year, and to give **credit** to the Respondent if the payments made on account exceed the expenditure in any one year.

### **The Issues in Dispute**

16. The Applicant's contended that the Respondent did not recognise her obligations under the lease to pay on account service charges for the management and maintenance of the property. Mr Barnes stated that as a result of the Respondent's failure to pay the service charges the Applicant did not have sufficient funds to maintain the property and tidy the garden. Mr Barnes acknowledged that the Respondent had paid £2,129.38 in February 2019 [115] towards the service charges, insurance and ground rent but that according to Mr Barnes was insufficient to cover the charges demanded.
17. Mr Barnes had prepared a statement of account dated 23 January 2024 [115] which sets out the ground rent, insurance, costs, and service charge and management costs for the period 25 March 2016 to 24 March 2024. This statement showed amounts demanded including court fees and interest in the sum of £7,150.18 and payments totalling £3,098.67 which left an amount outstanding of £4,051.51.
18. The Respondent stated that she had lived at the property with her husband for over 30 years. The Respondent said that the previous freeholder of the property had not demanded service charges, and that she did not understand why the present freeholder had started to demand service charges when it acquired the freehold around 2015.
19. The Respondent asserted that the Applicant had not carried out any maintenance to the block of maisonettes with the result that the property was falling into disrepair. The Respondent had looked after the garden for a considerable number of years and did not see why it was necessary to pay for a gardener. The Respondent was

willing to pay her share of the insurance costs but had refused to do so regularly because the Applicant had failed to supply her with copies of the insurance certificates and when she had been provided with copies of the certificates it had recorded that the “four maisonettes were let to professionals”. The Respondent pointed out that she was the owner of the maisonette and had lived there permanently with her husband.

20. The Tribunal explained to Mr Barnes that it could only determine those matters in the Claim which fell within its jurisdiction. The Tribunal had no jurisdiction to decide the amount of ground rent, interest and court fees. Further the Tribunal was not empowered to determine those service charges and other identified in the Statement of Account which were not included in the Claim transferred to it by the Order of DDJ Perry dated 23 August 2023.
21. The Tribunal accepted that the Respondent owned the long leasehold of Flat 3, and that she was not a tenant of the Flat under a short-term tenancy agreement. The Tribunal explained to the Respondent that the application of the word “Tenant” to her situation was to reflect the wording used in the long lease which defined her obligations to the freeholder under the terms of the long lease.
22. The Tribunal intends to determine those matters that falls within its jurisdiction by adopting the headings as set out in the Claim, namely: “Buildings Insurance”; “Service Charge and Management”; “Major Works”, and “Administrative Costs”. Under each heading the Tribunal will decide whether the Applicant is (1) entitled under the terms of the lease to recover the costs set out under the four headings from the Respondent, and if so (2) whether the costs have been reasonably incurred. The Tribunal will then consider whether the amount determined should take account of payments made, and year end adjustments to decide the amount payable for service charges (including insurance) by the Respondent (*Jarowicki v Freehold Managers (Nominees) Ltd*, 2016 WL 05930074 (2016)).

### **Buildings Insurance**

23. The disputed insurance contributions were in the sums of £302.92 (4 November 2019 to 3 November 2020), £318.50 (4 November 2020 to 3 November 2021), and £350.26 (4 November 2021 to 3 November 2022).
24. The Applicant supplied copies of the insurance certificates with Covea Insurance, and Gallagher for the maisonette block at Wingrove Court which showed premiums of £1,211.69 for the period of 4 November 2019 to 3 November 2020 [69], £1,274.00 for the period of 4 November 2020 to 3 November 2021 [71], and £1,401.05 for the period of 4 November 2021 to 3 November 2022 [72]. The disputed insurance contributions represented one quarter of the premiums paid for the insurance for the block of maisonettes for the years specified.

25. The Covea policies covered the risks of fire, lightning, earthquake, explosion, storm, flood, falling trees, riot & malicious damage, impact, aircraft, collapse of aereals, theft or attempted theft, accidental damage, glass breakage, subsidence and terrorism. The Gallagher policy covered all risks of physical loss or damage including terrorism. This complied with the risks for insurance identified in the lease.
26. Although the Covea and the Gallagher policies recorded the occupation of the property as “4 maisonettes let to professionals”, each policy recorded that it contained “other interests” clause which meant the interests of lessees and mortgagees in the property were automatically noted on the respective policy.
27. The Applicant exhibited demands for payment of the contribution for buildings insurance on 2 November 2020 for £282.50 in advance [81] and 10 November 2021 for £350.26 [87]. The demands complied with the statutory requirements and enclosed the Notice of Tenant’s Rights and Obligations.
28. The Applicant included in the bundle copies of correspondence addressed to the Respondent at Flat 3 Wingrove Court, 33 Oak Street, Romford RM7 7BS: (1) dated 28 October 2019 enclosing copies of the insurance schedules for the three years up to 4 November 2019 [123], and (2) dated 5 November 2019 enclosing a copy of the insurance schedule for the year to 4 November 2020 [122]. Finally the Applicant provided a copy of an email to the Respondent dated 5 July 2020 which referred to the non-payment of the buildings insurance for the period 4 November 2019 to 3 November 2020 [151]. The email attached a copy of the demand for payment dated March 2020 which the Tribunal infers was the demand for the unpaid insurance charge. Mr Barnes also stated that a demand was sent on 19 September 2019 for building insurance in advance in the sum of £282.50 for the period 4 November 2019 to 3 November 2020.
29. Mr Barnes explained that the Applicant arranged through its broker, a block insurance policy for its portfolio of properties which numbered around 70. Mr Barnes stated that its broker tested the market each year to achieve value for money. This was demonstrated by the change in insurers to Gallaghers in November 2021.
30. The Respondent adduced no evidence of alternative costs for insurance and did not challenge the reasonableness of the costs incurred for insurance by the Applicant. The Respondent indicated at the hearing that she was content to pay her contribution to the insurance costs, and in fact had recently recompensed the Applicant for her contribution to the insurance for 2023/24.



31. The Respondent's reasons for not contributing her share of the costs for insurance in the years in dispute were two-fold. First, the Respondent pointed out that her name should be on the insurance certificate, and that the description of the occupation as "four flats let to professionals" was inaccurate. Second, the Respondent asserted that she received the demands for payment infrequently and not always in November, and that the Applicant had not supplied copies of the insurance certificates when requested.
32. Sub-clause 5(5)(a) of the lease specifies that a policy of insurance procured by the Landlord must comply with the conditions set out in sub-clause 5(5)(d). The relevant condition in this case is at 5(5)(d)(ii) which requires the insurance to be granted in the names and for the respective interests of the Landlord and Tenant and the tenants of all other parts in the building. The Tribunal found at paragraph 26 above that the relevant policies incorporated the "other interests" clause which meant the interests of lessees and mortgagees in the property were automatically noted on the respective policy. In this regard the reference to "four flats let professionals" in the various certificates was a red-herring, and did not detract from the "other interests" clause. The Applicant should, however, still seek to correct the description of "four flats let to professionals".
33. The question, therefore, is whether the incorporation of the "other interests" clause meets the requirement of sub-clause 5(5)(d)(ii). The Upper Tribunal in *Brickfield Properties Ltd v Georgiades* [2020] UKUT 0118 was faced with a similar question but considered it did not have sufficient information from the insurance company to decide the effect of the "other interests" clause. Instead the Upper Tribunal found that on a proper construction of the lease the Tenant's covenant to pay the insurance charge was not conditional upon the Landlord's covenant to meet specific conditions for the insurance. The respective covenants were independent of each other. This is the case with the Respondent's lease. Under clause 4(3) the Tenant is required to pay to the Landlord by way of additional rent the Tenant's share of the annual maintenance cost for any year, which includes the costs of insurance. The Tenant's obligation to pay is independent of the Landlord's obligation to take out insurance which meets specific conditions. If the Landlord had failed to meet its obligation in respect of insuring in joint names, the Tenant's remedies are to claim damages for any loss so caused or to seek an injunction or specific performance but the remedies do not include non-payment of the insurance charge.
34. The Tribunal is satisfied on the evidence that the Applicant demanded payment of the insurance charge, and that it was sent to the Respondent in November of each of the years in question. The Respondent appeared to have had difficulties with her email which may explain why the Respondent did not receive all the demands for payment.

35. The Tribunal, however, has sympathy with the Respondent's complaint about the irregular timing of demands. The Tribunal observes that under the lease the Tenant is obliged to pay in advance on 25 March and 29 September in every year her share of the annual maintenance cost which includes insurance. This suggests that the Applicant should be issuing demands including insurance and allowing payments in two instalments at the beginning of March in each year. The Schedule of demands supplied by the Applicant at [50] supported the Respondent's assertion about the random timing of the demands for payment. The Tribunal does not consider, however, that the Applicant's failures to comply with the requirements of the lease with regard to the timing of demands fatal to the recoverability of the charges for insurance. The demands were late but not "too late".
36. The Tribunal finds that
- a) Under the terms of the lease, the Landlord was required to insure the property and was entitled to recover the costs of the insurance from the Tenants.
  - b) The Applicant demanded a contribution (one quarter) from the Respondent towards the costs of the insurance for the property for the periods 4 November to 3 November 2019/20; 2020/2021; and 2021/22.
  - c) The premiums paid for the insurance policies of £1,211.69 (2019/2020): £1,274.00 (2020/21]; and £1,401.05 (2021/22) were in the bounds of reasonableness.
37. **The Tribunal decides that the Respondent is liable to pay the Applicant contributions of £302.92 (2019/20), £318.50 (2020/21), and £350.26 (2021/22) towards the costs of insuring the property.**

### **Service Charge and Management Costs**

38. The Tribunal is required to determine the on account service charges for the periods 2019/20, 2020/21, 2021/22 and 2022/23. The amount of the on account service charges was the same, £452.50, for each year in question.
39. The Tribunal is required to address two questions: (1) whether there is authority under the lease to recover the costs as on account service charges? and (2) whether the charges are reasonable?
40. On question 1, the Tribunal is satisfied the Landlord is entitled under the terms of the lease to demand every year on account service charges from the Tenant.
41. On question 2, section 19(2) of the 1985 Act provides that

“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”.

42. The effect of section 19(2) is to modify the contractual obligation so that no greater amount than is reasonable is payable before the relevant costs are incurred. The language of the subsection suggests that the statutory ceiling applies at the time the leaseholder’s liability arises. If, at that date, the on-account payment is greater than a reasonable sum, the leaseholder’s contractual obligation is to pay only the lesser reasonable sum.

43. In the Upper Tribunal decision of *Charles Knapper and others v Martin Francis and Rebekah Francis* [2017] UKUT 3 LC Para 30. Martin Rodger QC Deputy Chamber President said:

“In principle it seems to me that the FTT was correct in disregarding matters which became known only after the appellants’ contractual liability arose. Those facts did not turn what had been a reasonable sum into an unreasonable sum. The question of what sum ought reasonably to be paid on a particular date, or ought reasonably to have been paid at an earlier date, necessarily depends on circumstances in existence at that date, and should not vary depending on the point in time at which the question is asked”.

44. The decision in “Knapper” established the principle that the question of the reasonableness of the proposed amount should be assessed against the circumstances known at the time of the demand of the on account service charge.

45. Martin Rodger QC, however, in the later decision of *Avon Ground Rents Limited v Mrs Rosemary Cowley and Others* [2018] UKUT 92(LC) emphasised that whether an amount is reasonable as a payment in advance is not generally to be determined by the application of rigid rules, but must be assessed in the light of the specific facts of the particular case. In this regard Martin Rodger QC at [51] referred to the Lands Tribunal decision in *Parker and Beckett v Parham* LRX/35/2002:

“It is not inconsistent with the Tribunal’s decision in Knapper for the likelihood of a particular event occurring during the period covered by an advance payment to be taken into account in determining the reasonableness of the amount of the payment. In Parker the Tribunal mentioned at several points that the certainty that works would be carried out, and thus the certainty of the anticipated costs, were matters which it was permissible to take into account in considering the reasonableness of the advance payment: “if the cost of the works is uncertain, so that there is a wide range of possible outcomes around the amount that the LVT has found to be reasonable, that could well be something that could affect the reasonableness of an advance payment”.

46. Under section 19(2) of the 1985 Act the Tribunal is not concerned with the reasonableness of the contractual obligation but only with the reasonableness of the proposed amount.
47. The Respondent contended that the amounts charged by the Applicant for services and management were not justified. The Respondent asserted that the leaseholders had been responsible for the gardening. The Respondent stated that the Applicant had not maintained the property which had fallen into disrepair. The Respondent gave the example of the rear garden fence which had collapsed about 10 years ago. The Respondent also stated that she found the accounts confusing.
48. Mr Barnes stated that when the Applicant assumed management of the property in 2016 it inspected the estate which revealed that no maintenance had taken place on the block of maisonettes. Mr Barnes said that the Applicant had been hampered in meeting its various obligations under the lease by the Respondent's failure to pay her contribution to the annual maintenance charge, which meant that the funds received from the other leaseholders had been redirected for insurance.
49. Mr Barnes accepted that the Applicant had not kept the garden tidy on a consistent basis. The Applicant had undertaken tree works reducing the height of a Leyland cypress hedge in 2018 and removing them all together in April in 2022. The Applicant had instructed a gardener in 2023 following a complaint about the state of the garden from another leaseholder. Mr Barnes alleged that the Respondent tried to stop the gardener from completing his work and produced a letter from the gardener in support of his allegation [117]. Mr Barnes stated that the Respondent did not have the Applicant's permission to do the gardening. The only evidence of maintenance to the building produced by Mr Barnes related to the rebuilding of the wall bordering the car park in 2016.
50. Mr Barnes responding to the Tribunal's questions said that he had not prepared a programme of works for the property and had made no arrangements to tend the garden on a regular basis.
51. Mr Barnes supplied the audited accounts for the property for the period from 25 March 2016 to 24 March 2019 [98] which revealed that the Respondent had cleared the arrears owing as at 24 March 2019. Although the Respondent's payment in February 2019 appeared late, it was not clear to the Tribunal when the Applicant had issued the demands for the charges in 2016-2019. The preparation of accounts for a three year period, and the demanding of the balancing charge for that three year period on 2 November 2020 [81] indicated that the Applicant did not understand the requirements of the service charge machinery set out in the lease.
52. The Statement of Account dated 23 January 2024 showed that the Respondent had made a further payment of £595 on 15 May 2023.

The Tribunal understands that this payment included the Respondent's contribution of £495 to the costs of felling the trees.

53. The Tribunal observes that the demands issued by the Applicant for the charges incurred since 25 March 2020 to 24 March 2023 were issued on various dates: 2 November 2020, [81]; 10 November 2021 [83]; and 24 June 2022 [85]. There was no demand exhibited for the period commencing 25 March 2019. The dates of the demands did not fit with the timetable envisaged in the lease of the issue of a certificate of expenditure for the previous year as soon as practicable after 1 January followed in around February and March with a demand for on account charges for the following years. Also none of the demands issued specified the dates of 25 March and 29 September as set out in the lease for payment of the charges. The Applicant, however, had supplied audited accounts for each accounting year from 25 March 2019 to 24 March 2023 [100 to 114].
54. The Tribunal finds that that the Respondent had not wilfully refused to pay her contribution to the annual maintenance cost as suggested by the Applicant. The Tribunal is satisfied on the evidence that the Respondent was willing to make contributions when the Applicant had performed the necessary works or given justification for the works. The Tribunal acknowledges that the Respondent was reluctant to make payments in advance because she believed that the Applicant had showed no interest in the property and would not carry out the necessary repairs. Further the Tribunal accepts that the Respondent viewed the garden as her responsibility and saw no point in the Applicant employing a gardener.
55. The Tribunal, therefore, does not agree entirely with the Applicant's reason for not carrying out regular maintenance of the building and the garden. The Tribunal finds that the Applicant's failure to comply strictly with the terms of the lease in respect of the timing of demands caused confusion. Further the Tribunal would have expected the Applicant to have taken a more proactive stance in respect of the management of the property, particularly in relation to repairs and maintenance of the building.
56. The Tribunal's findings do not mean that the Respondent escapes her obligation to contribute to the annual maintenance cost. The findings, however, may reflect on the standard of services provided by the Applicant.
57. The Tribunal now determines the reasonableness of the amount of charges claimed by the Applicant for the years in question. The amount claimed by the Applicant was the same, £452.50, for each year in question.
58. The Applicant did not supply copies of the demand and budget for the period 25 March 2019 to 24 March 2020. The Applicant's

evidence for the charges consisted solely of the audited accounts for the period ending 24 March 2020. In those circumstances the Applicant agreed with the Tribunal's proposal to determine the actual amounts incurred during that period. The accounts revealed two items of expenditure: £600 management fees, and £360 accountancy fee, making a total of £960 with the Respondent's contribution at 25 per cent of £240. The Tribunal is satisfied that the Applicant can recover the costs of the management and accountancy fees under the lease. Further the Tribunal finds that the fees are within the bounds of reasonable, however, there should be a 33.33 per cent reduction in the management fees for not being to the required standard.

59. The Tribunal, therefore, decides that charges of £760 have been reasonably incurred for the year 2019/2020. **The Tribunal determines that the Respondent is liable to pay the Applicant a contribution of £190 for the service charge and management for the year 2019/2020.**
60. The Applicant supplied evidence of a budget for the period 25 March 2020 to 24 March 2021 [75]. The budget excluding insurance totalled £1,810 with the Respondent's contribution of £452.50. The budget comprised £150 garden maintenance, £540 auditor's fee, £400 reserve fund and £720 management fee. In this instance the Tribunal is deciding on an amount no more than is reasonable and has to have regard to the information available to the Applicant at the time that the budget was set. Mr Barnes said that he took account of previous expenditure when setting the budget.
61. The Tribunal is satisfied that the Applicant can recover the costs of the garden maintenance, management fees and accountancy fees under the lease. Mr Barnes accepted that there was no authority under the lease to set aside a reserve fund. The Tribunal, therefore, disallows the £400 for reserve. The Tribunal applying its general knowledge and expertise to the facts decides that a charge of £150 is no more than is reasonable for garden maintenance. The Tribunal, however, having regard to previous expenditure, decides that an auditor's fee of £360 and a management fee of £600 are no more than is reasonable. The Tribunal makes no deduction for poor standard of service for management because the Tribunal is dealing with on account service charges.
62. The Tribunal, therefore, decides that on account charges of £1,110 for the year 2020/21 are no more than is reasonable. **The Tribunal determines that the Respondent is liable to pay the Applicant a contribution of £277.50 on account for the service charges and management for the year 2020/2021.**
63. The Applicant supplied evidence of a budget for the period 25 March 2021 to 24 March 2022 [76]. The budget excluding insurance totalled £2,250 with the Respondent's contribution of

£562.50. The Tribunal notes that the Respondent's contribution was more than the amount claimed of £452.50. The budget comprised £350 external maintenance, £160 garden maintenance, £540 auditor's fee, £400 reserve fund and £800 management fee. In this instance the Tribunal is deciding on an amount no more than is reasonable and has to have regard to the information available to the Applicant at the time that the budget was set. Mr Barnes said that when setting the budget he took account of previous expenditure.

64. The Tribunal is satisfied that the Applicant can recover the costs of the external maintenance, garden maintenance, management fees and accountancy fees under the lease. Mr Barnes accepted that there was no authority under the lease to set aside a reserve fund. The Tribunal, therefore, disallows the £400 for reserve. The Tribunal applying its general knowledge and expertise to the facts decides that charges of £350 and £160 are no more than is reasonable for external maintenance and garden maintenance. The Tribunal, however, having regard to previous expenditure decides that an auditor's fee of £360 and a management fee of £800 are no more than is reasonable. The Tribunal makes no deduction for poor standard of service for management because the Tribunal is dealing with on account service charges.
65. The Tribunal, therefore, decides that on account charges of £1,670 for the year 2021/22 are no more than is reasonable. **The Tribunal determines that the Respondent is liable to pay the Applicant a contribution of £417.50 on account for the service charges and management for the year 2021/2022.**
66. The Applicant supplied evidence of a budget for the period 25 March 2022 to 24 March 2023 [76]. The budget excluding insurance totalled £2,250 with the Respondent's contribution of £562.50. The Tribunal notes that the Respondent's contribution was more than the amount claimed of £452.50. The budget comprised £350 external maintenance, £160 garden maintenance, £540 auditor's fee, £400 reserve fund and £800 management fee. In this instance the Tribunal is deciding on an amount no more than is reasonable and has to have regard to the information available to the Applicant at the time that the budget was sent. Mr Barnes said that when setting the budget he took account of previous expenditure.
67. The Tribunal is satisfied that the Applicant can recover the costs of the external maintenance, garden maintenance, management fees and accountancy fees under the lease. Mr Barnes accepted that there was no authority under the lease to set aside a reserve fund. The Tribunal, therefore, disallows the £400 for reserve. The Tribunal applying its general knowledge and expertise to the facts decides that charges of £350 and £160 are no more than is reasonable for external maintenance and garden maintenance. The Tribunal, however, having regard to previous expenditure decides

that an auditor's fee of £500 and a management fee of £800 are no more than is reasonable. The Tribunal makes no deduction for poor standard of service for management because the Tribunal is dealing with on account service charges.

68. The Tribunal, therefore, decides that on account charges of £1,810 for 2022/23 are no more than is reasonable. **The Tribunal determines that the Respondent is liable to pay the Applicant a contribution of £452.50 on account for the service charges and management for the year 2022/2023.**
69. The Tribunal decides that the Respondent is liable to pay **£1,337.50** to the Applicant in respect of the on account service charge and management for the periods starting from 24 March 2019 to 24 March 2023.

### **Major Works – 29 April 2022**

70. The Applicant accepted that the Respondent had paid her contribution of £495 on 15 May 2023. The Tribunal, therefore, takes the view that it has no jurisdiction to decide the costs of major works because the matter has been settled.

### **Administrative Costs**

71. Mr Barnes said he had incurred £200 in administrative costs in bringing these proceedings. Mr Barnes supplied no justification for how the amount of £200 had been arrived at and produced no invoice and no demand for these costs.
72. The Tribunal decides on the evidence to make no order for the £200.

### **Adjustments**

73. The Tribunal determines that the amount payable by the Respondent in respect of insurance, service charge and management, major works and administrative costs as identified in the Claim is £2,3019.18. This determination is subject to the following adjustments.
74. The Tribunal's obligation under section 27A of the 1985 Act is to determine the actual amount payable by the Respondent to the Applicant in respect of insurance, service charges and management for the periods of 2019/20 to 2022/23. The Applicant supplied the audited accounts for the periods in question which enabled the Tribunal to apply balancing charges if any to its determinations for the years in question. The Tribunal has already had regard to the actual figures for 2019/20 service charge and the insurance charges. The issue, therefore, is whether adjustments should be made to the on account service charges for the years 2020/21,



2021/22 and 2022/23 having regard to the actual expenditure incurred in the years in question.

75. The audited accounts for the year ended 24 March 2021 showed expenditure of £720 comprising £600 management fee and £120 for accountancy fee. The Tribunal has decided that the management fee should be reduced by 33.33 per cent for not being to the required standard. This gives a figure of £520 for actual expenditure with a Respondent's contribution of £130.
76. The audited accounts for the year ended 24 March 2022 showed expenditure of £1,300 comprising £800 management fee and £500 for accountancy fee. The Tribunal has decided that the management fee should be reduced by 33.33 per cent for not being to the required standard. This gives a figure of £1,100 for actual expenditure with a Respondent's contribution of £275.
77. The audited accounts for the year ended 24 March 2023 showed expenditure of £1,300 comprising £800 management fee and £500 for accountancy fee. The expenditure for garden maintenance and professional fee has been accounted for separately under the heading of major works. The Tribunal has decided that the management fee should be reduced by 33.33 per cent for not being to the required standard. This gives a figure of £1,100 for actual expenditure with a Respondent's contribution of £275.
78. **The Tribunal determines that following the adjustments for actuals the Respondent is liable to pay the Applicant the sum of £1,841.68.**
79. The final adjustment involves the payments made by the Respondent. The Statement of Account showed that the Respondent made payments of £25 on 14 May 2016, and £2,129.38 on 20 February 2019. The Statement of Account records liabilities of £75 for Ground Rent demanded for the three years commencing 25 March 2016 to 24 March 2019, of £826.21 for insurance demanded for the three years commencing 4 November 2016 and, of £552.50 for service charge and management for the three years commencing 25 March 2016 to 24 March 2019. The total amount for liabilities is £1,453.71 which gave a balance of £700.67 in the Respondent's favour when set against the payment of £2,129.38. At the hearing Mr Barnes agreed with the Tribunal's calculation of the balance owing to the Respondent which the Tribunal has decided to deduct from the adjusted determination of £1,841.68 which gives a figure of £1,140.1.
80. Following the hearing the Tribunal discovered that the figures for the Respondent's liabilities in the Statement of Account did not correspond with the figures in the combined Audited account for 2016 to 2019. There are two principal discrepancies. The first is that the Applicant's contribution of £462.50 to the repairs to the wall and the pruning of the trees is shown separately in the

Statement of Account as an extra-ordinary item which is undated and did not form part of the Claim to the County Court. There is no evidence in the hearing bundle of when these sums were demanded from the Respondent, and whether the requirements of section 20B has been met as they date back to 2015 and 2016. The Tribunal's decision does not include the sum of £462.50 in its computation and does not compromise the Applicant's ability to pursue this amount but the Applicant would have to demonstrate it has met the various legal requirements to obtain an order against the Respondent.

81. The second discrepancy is that the total of £552.50 for service charges and management in the Statement of Account were not the same as that in the combined Audited account, which was £750. Mr Barnes in his witness statement relied on the Statement of Account to prove the amount outstanding against the Respondent. The Tribunal is entitled to accept Mr Barnes' reliance upon the Statement of Account and adopt the figure of £552.50 for service charge and management fees for the period 25 March 2016 to 24 March 2019.

### **Decision**

82. **The Tribunal determines that the Respondent is liable to pay the Applicant the sum of £1,141.01 in relation to the sums identified in the Claim issued on 26 October 2022 which fall within the Tribunal's jurisdiction.** The Tribunal sets out its computation in Appendix One attached.
83. The Tribunal transfers the proceedings back to Romford County Court for judgment in respect of the Tribunal's determination.
84. The Tribunal has not determined the Claim for ground rent, interest or costs which are matters for the Court. The Tribunal observes for the benefit of the Court that it would appear that the Respondent has paid the outstanding ground rent of £100. The Tribunal refers to the payment of £595 in the Statement of Account made on 15 May 2023. The Tribunal understands that £495 was allocated to the major works which leaves a balance of £100 for the outstanding ground rent.
85. The Tribunal identifies for the benefit of the parties that it has not determined the following matters as set out in the Statement of Account because they were not included in the Claim:
- The Ground Rent 2023/24 of £25 (This would appear to have been paid on 24 April 2023).
  - Buildings Insurance of £510.25 for 4 November 2022 to 3 November 2023.

- Buildings Insurance of £324.29 for 4 November 2023 to 3 November 2024 (This would appear to have been paid on 19 November 2023).
- On Account Service Charge of £452.50 for 25 March 2023 to 24 March 2024.
- Extra-ordinary items of £462.50 rebuild of wall and reduce crown of tree (see the Tribunals comments at paragraph 80 above).

86. The parties may wish to consider settling the outstanding matters including whether the Applicant is prepared to engage the Respondent to carry out the gardening to avoid further proceedings.

| <b>Appendix One: Flat 3 Wingrove Court, 33 Oak Street, Romford RM7 7BS</b> |                   |                                    |                           |                            |                          |                   |
|--|-------------------|------------------------------------|---------------------------|----------------------------|--------------------------|-------------------|
| <b>Details of Claim</b>  | <b>Amount (£)</b> | <b>Applicant's Case</b>            | <b>Respondent's Case</b>  | <b>Tribunal's Decision</b> | <b>Determination (£)</b> | <b>Actual (£)</b> |
| Ground Rent 25/3/19 to 25/3/20   | £ 25.00           |                                    | Paid £100 on 15.5.23      | No jurisdiction            | £ -                      |                   |
| Ground Rent 25/3/20 to 25/3/21   | £ 25.00           |                                    |                           | No jurisdiction            | £ -                      |                   |
| Ground Rent 25/3/21 to 25/3/22   | £ 25.00           |                                    |                           | No jurisdiction            | £ -                      |                   |
| Ground Rent 25/3/22 to 25/3/23   | £ 25.00           |                                    |                           | No jurisdiction            | £ -                      |                   |
| Building Insurance 4/11/19-3/11/20   | £ 302.92          | 25% of premium paid £1,211.69      | No amount suggested       | Amount reasonable          | £ 302.92                 | £ 302.92          |
| Building Insurance 4/11/20-3/11/21   | £ 318.50          | 25% of premium paid £1,274.00      | No amount suggested       | Amount reasonable          | £ 318.50                 | £ 318.50          |
| Building Insurance 4/11/21-3/11/22   | £ 350.26          | 25% of premium paid £1,401.05      | No amount suggested       | Amount reasonable          | £ 350.26                 | £ 350.26          |
| Service Charge 25/3/19 to 25/3/20  | £ 452.50          | 25% of on account charge.          | No service charge payable | £190 reasonable            | £ 190.00                 | £ 190.00          |
| Service Charge 25/3/20 to 25/3/21  | £ 452.50          | 25% of on account charge.          | No service charge payable | £277.50 reasonable         | £ 277.50                 | £ 130.00          |
| Service Charge 25/3/21 to 25/3/22  | £ 452.50          | 25% of on account charge.          | No service charge payable | £417.50 reasonable         | £ 417.50                 | £ 275.00          |
| Service Charge 25/3/22 to 25/3/23  | £ 452.50          | 25% of on account charge.          | No service charge payable | £452.50 reasonable         | £ 452.50                 | £ 275.00          |
| Major Works 29.4.22  | £ 495.00          |                                    | Paid £495 on 15.5.23      | No jurisdiction            | £ -                      |                   |
| Administrative Costs   | £ 200.00          | Estimated costs of the proceedings | Not payable               | Not payable                | £ -                      |                   |
| <b>Determination</b>   |                   |                                    |                           |                            | <b>£ 2,309.18</b>        |                   |
| <b>Adjusted Determination on Actuals</b>                                   |                   |                                    |                           |                            |                          | <b>£ 1,841.68</b> |
| Balance arising from Payments made   |                   |                                    |                           |                            |                          | £ 700.67          |
| <b>Determination following adjustments</b>                                 |                   |                                    |                           |                            |                          | <b>£ 1,141.01</b> |

## **RIGHTS OF APPEAL**

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.