



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

Case reference : LON/00AH/LSC/2024/0017

Property : Ground Floor Flat, 45 Epsom Road,
Croydon, CR0 4NB

Applicant : Salvatore Landolina

Representative : In person

Respondent : Deborah Ellis

Representative : In person

Type of application : (1) Service charges (section 27A of the
Landlord and Tenant Act 1985)
(2) Administration charges (schedule
11 of the Commonhold and
Leasehold Reform Act 2002)

Tribunal members : Judge Tueje
Mr S Wheeler MCIEH, CEnvH

Venue : 10 Alfred Place, London WC1E 7LR

Date of hearing : 3rd June 2024

Date of decision : 8th July 2024

DECISION

In this determination, statutory references relate to the Landlord and Tenant Act 1985 unless otherwise stated.

DECISIONS OF THE TRIBUNAL

- (1) The Tribunal makes the determinations set out under the various headings and set out in table after paragraph 51 below.
- (2) The Applicant's application for costs is refused for the reasons set out at paragraphs 85 to 87 below.

THE APPLICATION

1. The Application, dated 10th January 2024, sought a determination pursuant to section 27A as to the reasonable amount payable for various service charges covering the period 1st July 2016 to 19th November 2023, amounting to £1,594.83. For the reason set out at paragraph 4 below, the Application was dealt with as an application under schedule 11 of the Commonhold and Leasehold Reform Act 2002.

THE HEARING

2. Both parties attended the hearing and were unrepresented.
3. Mr Landolina prepared an indexed and paginated 572-page bundle. Ms Ellis also relied on a letter dated 6th May 2024 and correspondence referred to therein.
4. Although the Application describes some amounts claimed as service charges, Mr Landolina clarified at the hearing that these were being claimed as administration charges.

THE BACKGROUND

5. The subject property is known as Ground Floor Flat, 45 Epsom Road, Croydon, CR0 4NB (the "Property"). The Property is within a three-storey former Victorian terraced house converted into three flats. Mr Landolina is the freeholder, and Ms Ellis is the long leaseholder of the Property.
6. Sub-clause 2(2)(b) of the lease deals with when service charge payments are due. It provides:

The amount of such contribution shall be ascertained and certified by the Lessor's Managing Agents (whose certificate shall be final and binding on the parties hereto) once a year on the Twenty-fifth day of December in each year commencing on the Twenty-fifth day of December One thousand nine hundred and seventy-eight the Lessee shall on the execution hereof pay the sum of Twenty-five Pounds (£25.00) On account of the contribution for the year ending the Twenty-fifth day of December One thousand nine hundred and seventy-eight and thereafter shall on the

Twenty-fifth day of March and the Twenty-ninth day of September in each year pay a sum equal to one half of the amount payable by the Lessee for the preceding year under the provisions of this Clause on account of such contribution and shall on demand pay the balance (if any) ascertained and certified as aforesaid PROVIDED that until the contribution shall have been ascertained and certified as aforesaid for the year ended the Twenty-fifth day of December One thousand and seventy-eight the Lessee shall on each of the said half yearly days fixed for payment of rent as aforesaid pay the sum of Twelve pounds Fifty pence (£12.50) on account thereof

7. Clause 2(6) of the lease also requires Ms Ellis to pay legal costs relating to actual or contemplated forfeiture proceedings.
8. Clause 2(9) requires Ms Ellis to allow the Lessor and others such as agents to enter the Property to view its condition.
9. As regards insurance, by clause 2(13) Ms Ellis must not do anything which invalidates the buildings insurance or may cause the premiums to increase.
10. By clause 14(1) Ms Ellis must not assign, sublet or part with possession of part of the Property, and by paragraph 1 of the Third Schedule, the Property may only be occupied by a single family or a single household unit. There are no other provisions dealing with occupancy or non-occupancy of the Property.

THE SERVICE CHARGES AND ADMINISTRATION CHARGES

Legal Costs and Legal Fees

11. The first charge Mr Landolina claims in the Application relates to county court proceedings he issued in around March 2012 against Ms Ellis to recover unpaid service charges and administration charges (see paragraph 16 below). Ms Ellis brought a counterclaim against Mr Landolina within those proceedings, alleging he was in breach of repairing covenants under the lease. She claimed a leak from the flat above the Property, namely 45a Epsom Road, caused the kitchen ceiling within the Property to collapse. Ms Ellis informed the Tribunal at the final hearing within these proceedings, that as a result of this leak she no longer lives at the property. She says the Property is unsafe because the underlying cause of the leak has not been remedied.
12. By an order in the county court proceedings dated 7th January 2016, District Judge Zimmels struck out Mr Landolina's claim, also striking out Ms Ellis's counterclaim, and directed Ms Ellis pay Mr Landolina's costs of defending the counterclaim. Mr Landolina's costs were assessed at £26,822.05 including interest, as set out in a Default Costs Certificate dated 3rd March 2016. The costs certificate made no provision for continuing interest. On

22nd March 2016 Mr Landolina obtained an interim charging order for £26,822.05. On 24th June 2016 he obtained a final charging order for £27,495.33 including costs, to be paid by 8th July 2016. The final charging order made no provision for interest.

13. In her statement of case for this Application, dated 26th April 2024, Ms Ellis states she has paid the £27,495.33 in full. Attached to her statement of case is a payment confirmation showing £27,495.33 was paid to Mr Landolina on 8th July 2016.
14. The second item in Mr Landolina's Application is a claim for legal costs. This relates to an invoice dated 30th June 2016, payable to Gisby Harrison Solicitors for £360 including VAT. He explained these legal fees were for advice in connection with Ms Ellis' lease. In particular, he says he received complaints regarding the state of Ms Ellis's garden, and sought advice on how to deal with this. Mr Landolina claimed 50% of those legal costs related to advice about the garden, so he's claiming £180 from Ms Ellis. In his oral evidence to the Tribunal, he clarified this was an administration charge, hence he is not claiming any contribution from other leaseholders. Relying on Gisby Harrison's advice, Mr Landolina wrote to Ms Ellis on 1st July 2016 stating she had not kept the garden in a good condition. The letter refers to the garden being part of the demised premises as shown on Land Registry documents. The letter continues that it is sent in contemplation of forfeiture proceedings, therefore Ms Ellis is required to pay Mr Landolina's legal costs, being £180 of the fees paid to Gisby Harrison Solicitors.
15. When asked during his evidence whether he provided the statutory information required by paragraph 4 of schedule 11 to the Commonhold and Leasehold Reform Act 2002 when writing to Ms Ellis on 1st July 2016, Mr Landolina confirmed he had not. He also confirmed he has not sent this information with any of the administration charges claimed as part of the Application.
16. Mr Landolina wrote to Ms Ellis on 12th January 2017. He acknowledges receipt of £27,495.33 was paid on 8th July 2016 in respect of the final charging order, but claims £100 for costs, plus interest up to 8th July 2016. In this letter, the total amount claimed by Mr Landolina is £178.28. In his application he categorises this cost as "Other" as opposed to service charges or administration charges.
17. Finally, as regards fees, Mr Landolina claimed £150 for a letter dated 24th June 2020. However, as he was unable to point us to that letter in the bundle, nor explain what the fees were for, he withdrew that part of the Application.
18. Aside from the insurance premiums for 2022/2023 and 2023/2024, the remainder of Mr Landolina's claim relates to costs which he now pursues as administration charges. He describes these as administration charges for the non-payment of rent. However, except for 2022/2023 and 2023/2024,

in realty the charges are for the alleged late payment of rent. The administration charges are dealt with at paragraphs 19 to 36 and 42 and 43 below. The buildings insurance premiums are dealt with at paragraphs 37 to 41 below.

Administration Charges for Late Payment of Insurance for 2018/2019, 2019/2020 and 2020/2021

19. Pursuant to his obligations under the lease, Mr Landolina arranges the annual buildings insurance. The insurance policy term runs from 8th November to 7th November the following year. In the past Mr Landolina would send Ms Ellis a demand for her to pay her contribution towards the insurance premium when the premium fell due. His evidence was that he would typically request payment within 14 days of the cover start date. However, he complained that Ms Ellis would not pay her contribution within the period he specified; he said she effectively paid it when she chose.
20. Therefore, Mr Landolina claims an administration charge in relation to the alleged late payment by Ms Ellis of her contribution towards the insurance premium for the years 2018/2019, 2019/2020 and 2020/2021.
21. Mr Landolina took us to his letter to Ms Ellis dated 7th November 2018 regarding her contribution towards the 2018/2019 insurance premium. The letter informed her that her contribution was £318.69, and that she is required to pay the amount now. The letter states that the summary of tenants' rights and obligations is enclosed.
22. Ms Ellis paid this sum by a cheque sent on 29th December 2019. However, Mr Landolina complains Ms Ellis's contribution was late because it should have been paid within 14 days. Therefore, he claims an administration charge of £50 in respect of the alleged late payment.
23. Mr Landolina also claims an administration charge for the alleged late payment of the following year's insurance premium. He took us to a letter he sent to Ms Ellis dated 3rd January 2020 regarding her contribution of £334.98 towards the insurance premium. That letter states payment is required by return.
24. Mr Landolina sent a reminder on 17th January 2020 requesting immediate payment of the amounts stated in his 3rd January 2020 letter, adding if Ms Ellis didn't pay within 7 days there would be a £50.00 administration charge.
25. Ms Ellis says she sent a cheque for the 2019/2020 insurance premium on 4th February 2020. However, Mr Landolina complains Ms Ellis's contribution was late because it should have been paid within 14 days. Therefore, he claims an administration charge of £50 in respect of the alleged late payment of the 2019/2020 insurance contribution.

26. Mr Landolina e-mailed Ms Ellis on 23rd October 2020 requesting her contribution of £351.73, due for the 2020/2021 insurance premium, is paid by 7th November 2020. In a letter to Ms Ellis dated 11th January 2021, Mr Landolina wrote that her 2020/2021 contribution had not been paid, and requested her payment by return. He asked for a valid and functioning e-mail address. This was followed by a letter dated 19th January 2021 requesting Ms Ellis pay by 22nd January 2021, failing which, a £50.00 administration charge would be imposed. Mr Landolina also sent letters on 25th January 2021, 2nd February 2021, 17th February 2021, 9th April 2021 and subsequently regarding this payment.
27. Ms Ellis sent her contribution towards the 2020/2021 premium on 13th April 2022. She explained the time elapsing between Mr Landolina requesting payment and her sending the payment. Firstly, she said that she did not receive the e-mail Mr Landolina set in October 2020. She says Mr Landolina was aware she didn't receive it because he asked for a functioning e-mail address, indicating he knew that the one he used wasn't working. Secondly, Ms Ellis said that she was waiting for confirmation that she was named as an interested party on the insurance policy, and that her mortgagee's details were included, before making the payment.

Administration Charges Relating to Non-Occupation

28. A number of the charges Mr Landolina is claiming relate to the Property being unoccupied. This is dealt with in his letters sent from 25th January 2021 and onwards. In that correspondence, Mr Landolina describes these charges interchangeably as service charges and administration charges, but during his oral evidence, he confirmed he is claiming all of these as administration charges.
29. In the above correspondence Mr Landolina explained he is obliged to inform the insurance company if the Property is unoccupied. He highlighted to Ms Ellis, that under the terms of the insurance policy, the insurer reserved the right to amend the policy or the premium if the Property was unoccupied.
30. On 1st February 2021 Mr Landolina wrote to Ms Ellis, stating amongst other things: "*I now attach (1) a further invoice representing the administrative charge for the un-occupancy issue...*"
31. The 1st February 2021 letter enclosed an invoice for £50. The invoice describes the payment as a service charge due to the Property being unoccupied. The letter refers to "*...the usual notice about tenants' rights*" being provided. But in Mr Landolina's oral evidence he said this was the information prescribed by paragraph 3 of The Service Charges (Summary of Rights and Obligations, and Transitional Provision) (England) Regulations 2007. That is the only statutorily prescribed information included in the bundle. Therefore, on Mr Landolina's evidence, he has not complied with the mandatory requirement to provide the prescribed

information contained in The Administration Charges (Summary of Rights and Obligations) (England) Regulations 2007.

32. Mr Landolina accepts the lease does not require the Property is occupied. However, he pointed out that clause 2(13) of the lease prohibits Ms Ellis doing anything which may increase the cost of the insurance. He also argued an administration charge is justified because at that time, the terms of the buildings insurance required the Property was occupied. Therefore, the Property being unoccupied resulted in additional work as regards dealing with the insurers and notifying leaseholders about any increase in the policy excesses.
33. On 25th May 2021 Mr Landolina wrote to Ms Ellis informing her the insurers had increased the excesses payable, although the premium was unchanged. This letter continues:

Your failure to comply and adhere to the Policy Conditions has been and is detrimental to you, your mortgagor, me, the lessees of the other flats and their respective mortgagors. I'm now obliged to write to the other lessees to inform them of insurers restrictions, limitations and increase in the policy excesses.

As a consequence I am entitled to look to you under the terms of the lease to cover my time, costs charges and expenses caused by and arising from this. I will shortly provide you with an invoice for you to pay.

34. Further to the above letter, on 3rd June 2021, Mr Landolina wrote to Ms Ellis informing her that she was liable for a £150 service charge, and the “Usual Notice of Tenants’ Rights” was enclosed.
35. Mr Landolina’s 3rd June 2021 letter also requested access to the Property to carry out an inspection. He repeats this request in his letters dated 14th June 2021 and 21st June 2021. The latter states that Ms Ellis will be liable to pay £225 for him to carry out the inspection, and the charge will be payable whether or not Ms Ellis attends. Mr Landolina writes about this again on 25th August 2021 and 8th September 2021, proposing 9th October 2021 for the inspection. He also sent a reminder on 5th October 2021.
36. Ms Ellis was not at the Property on 9th October 2021, meaning Mr Landolina was unable to gain access when he visited. He therefore wrote to Ms Ellis on 11th October 2021 enclosing an invoice for £225, which describes the payment as a service charge. Ms Ellis accepts she was aware of the appointment, but did not attend or provide Mr Landolina access. Her written evidence states she was concerned that Mr Landolina was not qualified to carry out a meaningful inspection of the Property. But in her oral evidence she didn’t dispute the terms of her lease require her to allow Mr Landolina access. Nor, in light of that requirement, did she provide any adequate reason for failing to allow access under clause 2(9).

Building Insurance Premiums for 2022/2023 and 2023/2024

37. On 17th October 2022 and 26th October 2022, Mr Landolina wrote to Ms Ellis requesting she provide information that the insurance company required in order to insure her unoccupied Property. It seems Ms Ellis did not provide the requested information, resulting in a higher renewal quotation from that insurance company, Zurich. However, Mr Landolina later arranged insurance through a different company at a lower cost.
38. Therefore, on 1st November 2022, Mr Landolina wrote to Ms Ellis requesting she pays her contribution of £314.95 immediately, or at least before 8th November 2022. This payment is in respect of the 2022/2023 buildings insurance.
39. Mr Landolina also sent Ms Ellis a service charge demand dated 3rd November 2023 requesting her contribution of £274.88 towards the 2023/2024 buildings insurance.
40. Ms Ellis accepts she has not paid the 2022/2023 and 2023/2024 insurance premiums. She says that's because in respect of both insurance periods, on 18th March 2023 and 7th December 2023 respectively, she requested information about the insurance under sections 21 and 22. Mr Landolina's response to these requests was that he will provide the information once she has paid the premiums for those insurance periods.
41. Regarding the amount of the insurance premiums for 2022/2023 and 2023/2024, Ms Ellis does not claim the amounts are unreasonable.

Administration Charges for Non-Payment of Insurance Premiums for 2022/2023 and 2023/2024

42. As stated, Ms Ellis has not paid the insurance premiums for 2022/2023 and 2023/2024. Consequently, Mr Landolina claims a total administration charge of £100 for non-payment of the premium for both periods.
43. Numerous correspondence has been exchanged between the parties regarding these insurance premiums. For instance, Mr Landolina wrote to Ms Ellis on 1st November 2022 requesting the premium for 2022/2023 is paid immediately, and in any event by 8th November 2022. He also e-mailed her twice on 3rd November 2023, 6th November 2023, 16th November 2023, twice on 19th November 2023. This culminated in an invoice for £100, comprising a £50 charge for non-payment of the 2022/2023 premium, and a £50 charge for non-payment of the 2023/2024 premium. This was attached to the second e-mail sent on 19th November 2023. That e-mail refers to the "*usual tenants' notice*" being attached. The document attached is notice pursuant to The Service Charges (Summary of Rights and Obligations, and Transitional Provision) (England) Regulations 2007.

Other Matters Regarding the Application

44. As stated, the total amount claimed in the Application was £1,594.83. However, Mr Landolina's statement of case claimed a total of £1,773.11. He also provided a spreadsheet claiming the total amount due was £1,773.11, excluding £50 for ground rent for 2020/2021 and £50 ground rent for 2023/2024, which he said were not claimed as part of the Application. Having withdrawn his claim for the £178.26 claimed in his letter dated 12th January 2017 (see paragraph 17 above), Mr Landolina confirmed to the Tribunal his application is for £1,594.83.

THE LEGAL FRAMEWORK

45. The relevant statutory provisions are set out in the Appendix below.

Service Charges

46. The definition of service charges at section 18 includes the costs payable in respect of insurance and management, among other things.
47. Section 19(1) limits the amount recoverable as service charges to an amount that is reasonably incurred, and for works or services carried out to a reasonable standard.
48. Section 27A(1) empowers the Tribunal to determine whether a service charge is payable.

Administration Charges

49. By paragraph 1 of schedule 11 to the Commonhold and Leasehold Reform Act 2002, the circumstances in which a leaseholder may be liable to pay an administration charge include where the tenant has failed to make a payment by the date it falls due, and in connection with a breach or alleged breach of the lease.
50. By paragraph 2 of schedule 11, a leaseholder is only liable to pay an administration charge to the extent it is reasonable. And by paragraph 4(1) of schedule 11, the prescribed information contained in The Administration Charges (Summary of Rights and Obligations) (England) Regulations 2007 must accompany a demand for an administration charge.
51. Finally, paragraph 5 of schedule 11, empowers the Tribunal to determine, amongst other things, the amount payable as an administration charge.

A summary of the Tribunal's Decision

Date	Description	Ground Rent	Buildings Insurance	Administration Charges	Other	Tribunal's Decision	Paragraph reference for Tribunal's reasons
01/07/2016	Legal fees (letter dated 1 st July 2016)			£180.00		Nil	56-57
12/01/2017	Interest and costs (letter dated 12 th January 2017)				£178.28	Withdrawn	58-60
2018/2019	Administration charge for non-payment of insurance			£50.00		Nil	61-66
2019/2020	Administration charge for non-payment of insurance			£50.00		Nil	67-68
24/06/2020	Fees/charges due on letter dated 24 th June 2020			£150.00		Withdrawn	17
2020/2021	Administration charge for non-payment of insurance			£50.00		Nil	69-70
2020/2021	Ground rent	£50.00				N/A	
01/02/2021	Administration charge for non-occupation			£50.00		Nil	71-73
03/06/2021	Administration charge for non-occupation/insurance			£150.00		Nil	74-75
11/10/2021	Administration charge for inspection			£225.00		Nil	76-79
01/11/2022	Buildings insurance premium for 2022/2023		£314.95			£314.95	80-82
03/11/2023	Buildings insurance premium for 2023/2024		£274.88			£274.88	80-82
19/11/2023	Ground rent	£50.00				N/A	
19/11/2023	Administration charge for non-payment of insurance			£100.00		Nil	83-84

THE ISSUES

52. The issue for determination is the reasonableness of the administration charges, whether other amounts are payable. These are summarised in the table above.

THE DECISION

53. The Tribunal reached its decision after considering the oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.

54. This determination does not refer to every matter raised by the parties, or every document the Tribunal reviewed or took into account in reaching its decision. However, this doesn't 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.

55. With two exceptions, Mr Landolina's spreadsheet setting out the charges claimed is broadly replicated in the table above. The exceptions are that Mr Landolina's description of service charges have been replaced with administration charges, further to his clarification at the hearing. And secondly, columns have been added to show the Tribunal's decision, and paragraph references to those decisions, in respect of the items claimed.

The Tribunal's Decision – Legal Fees Due (letter of 1st July 2016)

56. The Tribunal determines that an administration charge in respect of the legal costs incurred by Mr Landolina for the legal advice from Gisby Harrison which he relied on to send the letter dated 1st July 2016 is unreasonable. Therefore, we reduce the £180 claimed to zero.

Reasons for the Tribunal's Decision

57. The Tribunal notes that clause 2(7) of the lease allows Mr Landolina to recover legal expenses incurred where forfeiture proceedings are contemplated. We also note that in his letter dated 1st July 2016, Mr Landolina states he is contemplating forfeiture proceedings. However, we do not consider the administration charge is reasonable. Mr Landolina confirmed during his oral evidence that he had not given Ms Ellis any prior warning regarding the condition of the garden. We consider it is not reasonable to seek legal advice on this straightforward matter, or to contemplate forfeiture, without first raising the matter with Ms Ellis.

The Decision – Letter dated 12th January 2017

58. The Tribunal makes no determination in respect of Mr Landolina's claim for statutory interest and costs dealt with in his letter dated 12th January 2017.

Reasons for the Tribunal's Decision

59. Mr Landolina clarified this claim is in respect of sums allegedly due by virtue of the order made by District Judge Zimmels on 24th June 2016.
60. The Tribunal does not have jurisdiction to enforce court orders or judgments, and in any event, Mr Landolina confirmed he did not wish to pursue this at the Tribunal hearing.

The Decision – Administration Charge for Late Payment of the 2018/2019 Insurance Premium

61. The Tribunal determines that the £50 claimed in respect of late payment of the 2018/2019 insurance premium is not reasonable, and reduces this to zero.

Reasons for the Tribunal's Decision

62. At the hearing Mr Landolina rightly pointed out that his Application relates to the reasonableness not the payability of various charges. However, the Tribunal explained to him payability is relevant as regards administration charges based on the late or non-payment of sums allegedly due. That is because it's likely to be unreasonable for Mr Landolina to recover an administration charge for late or non-payment of service charges if the service charges were not payable under the lease.
63. Therefore, interpreting the lease to determine whether the service charges were payable is relevant to establish whether the administration charges were reasonable.
64. By clause 2(2) of the lease, the service charge year runs from the 25th December to 24th December the following year. Service charges payments are made on account on 25th March and 29th September in each service charge year. The amount payable on each occasion is half of the amount payable in the previous service charge year. After the service charge year has ended, any balancing payment is due on demand after actual expenditure has been ascertained and certified.
65. It follows that Mr Landolina's letter dated 7th November 2018 requesting immediate payment of the 2018/2019 insurance premium does not comply with the terms of the lease. Mr Landolina requests a single lump sum payment for the buildings insurance, rather than payment by two instalments. He also requests immediate payment rather than payments in 14 days, or, as the lease stipulates, in March and September. On that basis, we find the insurance premium was not payable. Therefore, it is not reasonable for Ms Ellis to pay an administration fee for late payment of an insurance premium that was not payable at the time it was demanded.
66. While we find the administration charge is unreasonable, in the alternative, we also find it is not payable. That is because the information required by The Administration

Charges (Summary of Rights and Obligations) (England) Regulations 2007 was not provided.

The Decision – Administration Charge for Late Payment of the 2019/2020 Insurance Premium

67. The Tribunal determines that the £50 claimed in respect of late payment of the 2019/2020 insurance premium is not reasonable, and reduces this sum to zero.

Reasons for the Tribunal’s Decision

68. Mr Landolina’s 3rd January 2020 demand for the buildings insurance is in similar terms to the 7th November 2018 demand. Therefore, it also does not comply with the terms of the lease, and the reasons stated at paragraphs 62 to 65 above regarding reasonableness, and paragraph 66 regarding payability, also apply to payment of the 2019/2020 insurance premium.

The Decision – Administration Charge for Late Payment of the 2020/2021 Insurance Premium

69. The Tribunal determines that the £50 claimed in respect of late payment of the 2020/2021 insurance premium is not reasonable, and reduces this sum to zero.

Reasons for the Tribunal’s Decision

70. We note Mr Landolina’s e-mail sent on 23rd October 2020 allowed around 14 days for payment of the 2020/2021 insurance premium. However, that does not comply with the requirements of the lease. In any event, we find Ms Ellis didn’t receive the e-mail, and Mr Landolina’s letter dated 11th January 2021 suggests he was aware of this. But again, Mr Landolina’s 11th January 2021 letter, and subsequent letters, do not comply with clause 2(2) of the lease. The matters discussed at paragraphs 62 to 65 above apply to the 2020/2021 insurance premium. Accordingly, for the reasons stated therein we consider the administration demand for late payment of the 2020/2021 insurance premium is not reasonable. Alternatively, we find the administration charge is also not payable for the reasons stated at paragraph 66 above.

The Decision - Administration Charges Relating to Non-Occupation (1st February 2021)

71. The Tribunal’s decision is that the £50 administration charge relating to non-occupation is not reasonable, and reduces this sum to zero.

Reasons for the Tribunal’s Decision

72. It is common ground that non-occupation of the Property does not amount to a breach of Ms Ellis’s lease. In our experience, any material changes of circumstances, such as the Property becoming unoccupied, would need to be disclosed to the insurers

at the latest, by the date of the renewal. We consider at that stage, there were a number of reasonable options available to Mr Landolina. To find alternative insurers willing to provide cover notwithstanding the Property is unoccupied. This would be part of the obligation to arrange insurance and/or manage the Property. Alternatively, as part of his obligation to arrange insurance, he could deal with any additional work involved in renewing the insurance. Subject to the statutory requirements of reasonableness and the terms of the lease, the additional work or finding new insurers are duties that he may seek payment for as service charges imposed for managing the property and/or arranging the insurance. Such service charges would then be apportioned amongst all leaseholders. However, we find it is not reasonable to claim an administration charge from Ms Ellis due to the Property being unoccupied, when the Property being unoccupied is not in breach of the lease.

73. We do not consider non-occupation is in breach of terms in the lease, including clause 2(13) of the lease (see paragraph 9 above). The excesses, but not the premium, under the Zurich policy went up when they were informed the Property was unoccupied. However, as regards the premium, we note that when Mr Landolina obtained alternative insurance that covered the unoccupied Property, the insurance premium went down. Mr Landolina would have been aware of this reduction in the premium by the date he sent his 1st February 2021 letter claiming an administration charge. Therefore, it was not reasonable to impose an administration charge as there was no breach or alleged breach of the lease at the date the charge was levied.

The Decision - Administration Charges Relating to Non-Occupation (3rd June 2021)

74. The Tribunal determines that the £150 administration charge relating to non-occupation is not reasonable, and reduces this sum to zero.

Reasons for the Tribunal's Decision

75. We note this administration charge has tripled since the £50 administration charge Mr Landolina claimed a few months earlier, on 1st February 2021. Furthermore, the letter dated 3rd June 2021 fails to explain the additional work and/or cost that the administration charge reflects. In light of this, and for the reasons stated at paragraph 73 above, we do not consider this administration charge is reasonable.

The Decision - Administration Charges Relating to Non-Occupation (9th October 2021)

76. The Tribunal's decision is that the £225 administration charge relating to non-occupation is not reasonable, and reduces this sum to zero.

Reasons for the Tribunal's Decision

77. We note that under the terms of the lease Ms Ellis is required to allow Mr Landolina and his contractors and agents access to the property to inspect it. We also note that Ms Ellis provided no adequate explanation for not allowing Mr Landolina access to the Property on 9th October 2021.
78. Arguably a failure to allow Mr Landolina access could be claimed as an administration charge on the grounds that it's a breach of the lease. However, Mr Landolina's correspondence makes clear the charge would be imposed whether access was granted or not. Consequently, the charge is for the visit, not for the failure to grant access. So, because the charge would be payable whether Ms Ellis breached the terms of the lease or not, we consider it is inappropriate to describe it as an administration charge. Meaning if payable, this would be as a service charge to be apportioned amongst all the leaseholders. The Tribunal pointed this out to Mr Landolina and sought confirmation as to whether this was being claimed as a service charge or an administration charge: he confirmed it was the latter. He said he did not wish other leaseholders to contribute to these costs.
79. On the basis that Mr Landolina claims this as an administration charge, in our judgment, it is not reasonable to charge Ms Ellis an administration charge for this inspection. The need for the inspection arose because of Zurich's concerns about the Property being unoccupied. But as stated, that is not a breach of Ms Ellis's lease. Therefore, we again consider for the reasons stated at paragraph 73 above, an administration charge which Ms Ellis alone would be liable for, is not reasonable.

The Decision - Building Insurance Premiums for 2022/2023 and 2023/2024

80. We find that the cost of the buildings insurance premiums at £314.95 for 2022/2023 and £274.88 for 2023/2024 are reasonable. However, we find that these premiums are not payable until these sums are requested in accordance with clause 2(2) of the lease.

Reasons for the Tribunal's Decision

81. Ms Ellis did not object to the amount, her reasons for not paying were because Mr Landolina had not provided the information she requested in March 2023 and December 2023. Based on our judgment and experience, in the absence of any dispute regarding the reasonableness of the amount, and as the premiums are similar to the amounts charged in previous years, we consider the amounts claimed are reasonable.
82. To the extent that Ms Ellis is claiming the costs are not payable, we find that the alleged failure of Mr Landolina to provide the requested information is not a legal basis for withholding payments. However, the service charge demands for the 2022/2023 and 2023/2024 premiums were sent on 1st November 2022 and 3rd

November 20223 respectively, with each demand requesting immediate payment. Therefore, for the reasons stated at paragraphs 62 to 65 above, we find these sums are not payable.

The Decision – Administration Charge for Non-Payment of the 2022/2023 and 2023/2024 Insurance Premiums

83. The Tribunal determines that the £100 claimed in respect of non-payment of the 2022/2023 and 2023/2024 insurance premiums is not reasonable, and reduces this sum to zero.

Reasons for the Tribunal's Decision

84. Our reasons for finding the administration charge is not reasonable are the same as set out at paragraphs 62 to 65 above. Alternatively, we consider the administration charge is not payable for the reasons set out at paragraph 66 above.

THE APPLICATION FOR COSTS

The Decision on Costs

85. Mr Landolina's application for costs pursuant to rule 13(1) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 is refused.

Reasons for the Tribunal's Decision

86. The Tribunal is a no costs jurisdiction, and the threshold a party must meet to recover its costs is a high one. Having considered Mr Landolina's application for costs, we do not consider the threshold has been met. Ms Ellis has been broadly successful in opposing Mr Landolina's Application. We have mainly found the amounts claimed as service charges and/or administration charges unreasonable. The only exceptions are the buildings insurance premiums for 2022/2023 and 2023/2024, which we found to be reasonable but not payable.

87. Accordingly, we consider this case does not justify departing from the usual no costs approach. In our judgment, to do so would be contrary to the overriding objective.

Name: Judge Tueje

Date: 8th July 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

Extracts from the Landlord and Tenant Act 1985

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.*

Extracts from Schedule 11 of the Commonhold and Leasehold Reform Act 2002

Paragraph 1 – Meaning of Administration Charge

(1) In this Part of this Schedule “*administration charge*” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—

- (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
- (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
- (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
- (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule “*variable administration charge*” means an administration charge payable by a tenant which is neither—

- (a) specified in his lease, nor
- (b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Paragraph 2 – Reasonableness of Administration Charges

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Paragraph 4 – Notice in Connection with Demands for Administration Charges

(1) A demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges.

(2) The appropriate national authority may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of an administration charge which has been demanded from him if sub-paragraph (1) is not complied with in relation to the demand.

(4) Where a tenant withholds an administration charge under this paragraph, any provisions of the lease relating to non-payment or late payment of administration charges do not have effect in relation to the period for which he so withholds it.

Paragraph 5 – Liability to Pay Administration Charges

(1) An application may be made to the appropriate tribunal for a determination whether an administration 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) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) 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.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
 (a) in a particular manner, or
 (b) on particular evidence,
of any question which may be the subject matter of an application under sub-paragraph (1).

