



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

Case reference : **CAM/00KF/LIS/2023/0009**

Property : **40 Stromness Road, Southend on Sea,
Essex, SS2 4JQ**

Applicant : **Hamid Mashhoudi**

Representative : **In person**

Respondent : **Long Term Reversions, Harrogate
Limited**

Representative : **Charlene Brown, of Warwick Estates
(Managing Agent)**

Type of application : **For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985**

Tribunal members : **Judge Bernadette MacQueen
Mr Gerard Smith, MRICS, FAAV, REV**

Venue : **Cloud Video Platform (CVP)**

Date of hearing : **4 June 2024**

Date of decision : **1 July 2024**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that, in respect of disputed service charges items brought to the Tribunal for the year 01/01/2022 to 31/12/2022, the sum of £1,319 is payable, of which £659.50 is payable by the Applicant.
- (2) The Tribunal determines that, in respect of disputed service charges items brought to the Tribunal for the year 01/01/2023 to 31/12/2023, the sum of £1,480 is payable, of which £740 is payable by the Applicant.
- (3) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985 or paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.
- (4) The Tribunal makes these determinations under the various headings in this Decision.

The Application

1. The Applicant sought a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable by the Applicant in respect of the disputed service charges for the years 01/01/2022 to 31/12/2022 and 01/01/2023 to 31/12/2023.

The Hearing

2. The hearing was held remotely using Cloud Video Platform.
3. The Applicant appeared in person and Charlene Brown appeared on behalf of Warwick Estates, the managing agent.
4. In accordance with the directions made on 6 November 2023, a bundle of documents consisting of 51 pages was before the Tribunal. In addition, a copy of the lease dated 10 July 1989 was also before the Tribunal, as was a typed schedule for the service charge year 2023 (the 2022 typed schedule being within the 51 page bundle).

The Background

5. 40 Stromness Road was a terraced house divided into two flats, one flat was on the ground floor and the other on the first floor. The property which was the subject of this application was the ground floor flat (the Property).

6. Neither party requested an inspection, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
7. The Applicant held a long lease of the Property which required the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The relevant lease was dated 10 July 1989 and was made between M.C and K.J Brown to N.G Fear and J.L Godwin.

The Issues

8. At pages 30 to 33 of the bundle was a schedule setting out the comments of both parties in relation to the disputed service charges for the year 01/01/2022 to 31/12/2022. For the 2023 service charge year, at page 29 of the bundle, was a copy of the schedule that was completed in handwriting by only the Applicant. Whilst not in the bundle, there was also before the Tribunal a typed schedule for the service charge year 01/01/2023 to 31/12/2023. This version had both the Applicant's and the Respondent's comments in relation to the issues in dispute. The Tribunal used the schedules containing both the Applicant's and Respondent's comments to identify the issues in dispute.
9. The items in dispute set out in the schedule for the service charge year 01/01/2022 to 31/12/22 were:
 - Asbestos Testing
 - Accountancy Fees
 - Management Fee
 - Out of Hours service
 - Professional Fee
 - Reserve Fund
 - Minor Repairs
 - Health and safety
 - Risk management
10. The items in dispute set out in the schedule for the service charge year 01/01/23 to 31/12/23 were:
 - Asbestos Testing
 - Accountancy Fees
 - Management Fee
 - Out of Hours service
 - Reserve Fund
 - Minor Repair

- Health and safety
- Door entry repair
- Insurance valuation

11. For the 01/01/2022 to 31/12/2022 service charge year, both parties agreed that whilst asbestos testing, minor repairs and health and safety required repairs were listed in the schedule, no work was actually completed under these headings and therefore no charges were made by the Respondent. The Tribunal therefore did not consider these items further.
12. For the 01/01/2023 to 31/12/2023 service charge year, both parties agreed that whilst asbestos testing, insurance valuation, door entry repair and health and safety required repairs were listed, no work was actually completed under these headings and therefore no charges were made by the Respondent. The Tribunal therefore did not consider these items further.
13. The relevant issues for determination were therefore the payability and reasonableness of service charges under the following headings:

01/01/2022 to 31/12/22:

- Accountancy Fee
- Management Fee
- Out of Hours
- Professional Fee
- Reserve Fund
- Risk Management

01/01/2023 to 31/12/23:

- Accountancy Fee
- Management Fee
- Out of Hours
- Reserve Fund
- Minor repair
- Risk Management

14. Having heard evidence and submissions from the parties and considered all of the documents provided, the Tribunal made determinations on the various issues as follows.

Accountancy Fee

15. The Parties set out their positions in the schedule as follows:

Item	Cost	Tenant's Comments	Landlord's Comments
Accountancy fees	£120 (2022) £138 (2023)	Irrelevant. Zero Pounds	Service charge accounts are to be produced and audited at the end of each service charge year, as per the sixth schedule, Clause 8. (Copy of lease attached). This is a professional fee and to be charged for separately, as per the management agreement in place with the Landlord.

16. The Applicant told the Tribunal that he had not received any receipt for this work and that this fee could not be justified.
17. The Respondent confirmed to the Tribunal that the accounts were audited by Warwick Estates' internal accountants and that if the accounts were audited by an external firm, the cost was likely to be much higher. Although not within the bundle, the Respondent confirmed there was an invoice dated 11/01/23 for the preparation of service charge accounts for 2022, and an invoice dated 13/02/24 for the preparation of service charge accounts for 2023.

The Tribunal's Decision – Accountancy Fee

18. The Tribunal accepted the evidence of the Respondent. The Tribunal found that the lease required accounts to be audited (paragraph 8 of the sixth schedule), and that by the Respondent using internal accountants, the amount payable was lower than if an external firm were engaged. Using its professional knowledge, the Tribunal found that £120 for auditing accounts for 2022 (of which the Applicant would pay £60) and £138 for 2023 (of which the Applicant would pay £69) was reasonable.

The Tribunal therefore found that this amount was payable by the Applicant.

Management Fee

19. The Parties set out their position in the schedule as follows:

Item	Cost	Tenant's Comments	Landlord's Comments
Management Fee	£382 (2022) £404 (2023)	Zero Pounds	As per the Sixth Schedule, Clauses 6 and 7, this is Warwick Estates fee for managing the building on behalf of the Landlord.

20. The Applicant told the Tribunal that the managing company had not completed any work and that they had not completed any inspections or spent any money on the Property.
21. The Respondent told the Tribunal that this management fee covered, amongst other things, four visits to the Property per year, budgeting, (including the reserve fund), billing and collection of monies, responding to queries, long term maintenance and advice on major works.
22. The Applicant told the Tribunal that the Respondent was unable to enter the Property to complete any inspection as he had changed the front door lock and they did not have a key. However, in evidence to the Tribunal, Charlene Brown, on behalf of the Respondent, confirmed that they had been provided with a key by the other flat owner and were able to enter the Property.

The Tribunal's Decision - Management Fee

23. The Tribunal was satisfied that a management fee was payable under the lease (paragraphs 6 and 7 of the sixth schedule). In terms of the amount charged being reasonable, the Tribunal accepted the evidence of Charlene Brown and found her to be a credible witness in the way she described the work that was completed. The Tribunal was satisfied that

the Respondent had access to the Property and was satisfied that the work described by the Respondent was completed by them. Using its expert knowledge of the market, the Tribunal found that the management fee for the Property charged by the Respondent was reasonable.

Out of Hours

- 24. At page 45 of the bundle was the invoice for £24 relating to the out of hours service fee for January 2022 to December 2022, and at page 50 of the bundle was the invoice for £30 relating to the out of hours service fee for January 2023 to December 2023.
- 25. In the schedule, the parties set out their positions in relation to the out of hours fee as follows:

Item	Cost	Tenant's Comments	Landlord's Comments
Out of Hours	£24 (2022) £30 (2023)	No work been done Irrelevant. Zero pounds	An external company has been appointed to provide an emergency service outside of office hours which is available 24 hours, 365 days per year should an emergency occur. This is a professional fee and to be charged for separately, as per the management agreement in place with the Landlord.

- 26. In evidence, the Applicant told the Tribunal that no work had been completed and that he did not have a telephone number to call the out of hours service on.

27. The Respondent confirmed that the landlord had notified the Applicant of the out of hours service in the welcome letter which had been sent to the Applicant at his correspondence address on 7 January 2020. Additionally, the out of hours number was given in all email signatures in emails sent by Warwick Estates.

The Tribunal's Decision – Out of Hours

28. The Tribunal accepted that the out of hours service was payable under the lease (paragraph 5 of the sixth schedule), and accepted the evidence of the Respondent that the landlord wished to provide this service and had given the Applicant details of the service. The Tribunal found that to provide an out of hours service was reasonable in the event of an emergency and that an annual fee of £24 (for 2022) and £30 (for 2023), of which the Applicant was responsible for half, was a reasonable amount for the provision on this service based on the Tribunal's professional expertise.

Professional Fee

29. The parties set out their position in the schedule as follows:

Item	Cost	Tenant's Comments	Respondent's Comments
Professional Fee (2022 only)	£40	Irrelevant- Zero pounds	This is a fee payable to the Landlord in order for them to review the service accounts and budget each year. The Landlord charged £40 for this during this period and £60 was credited back when the service charge accounts for this period were issued.

30. The Applicant told the Tribunal that no work had been completed to justify this fee.

31. The Respondent told the Tribunal that this fee was charged by Pier Management Limited and was a separate charge for reviewing the accounts and budget.

The Tribunal’s Decision – Professional Fee

32. The Tribunal found that this fee was payable under the lease (paragraph 6, sixth schedule) and accepted the evidence of the Respondent that this fee was charged for the review of the service charge accounts and budget. The Tribunal therefore found the professional fee for 2022 payable and reasonable.
33. For the service charge year 2023, the professional fee was not listed by the Applicant as an item in dispute and therefore the Tribunal was not asked to consider this. However, the Tribunal noted that the actual accounts for 2023 recorded a figure of £823 under this heading. The Tribunal would not expect the management fee for 2023 to be significantly higher than the amount charged in previous years. The budget amount for 2023 being £100 and the actual amount for 2022 being £40.

Reserve Fund

34. The parties set out their positions regarding the reserve fund in the schedule as follows:

Item	Cost	Tenant’s Comments	Landlord’s Comments
Reserve Fund	£500 (2022)	Irrelevant.	The lease allows for a reserve fund to be collected, as per the seventh schedule, clause 2. This is a contribution towards the reserve fund for major works.
	£500 (2023)	Zero Pounds	

The Tribunal’s Decision - Reserve Fund

35. The Tribunal found that the lease allowed for a reserve fund (paragraph 2 of the seventh schedule) and that £500 per year was a reasonable

amount for the Property given it was a terraced house of brick and tile construction. The Applicant's contribution was half, namely £250 for 2022 and £250 for 2023. The Tribunal found that this amount was therefore reasonable.

Risk Management

36. The parties' positions in relation to risk management were set out in the schedule as follows:

Item	Cost	Tenant's Comments	Landlord's Comments
Risk management	£253 (2022) £253 (2023)	Irrelevant. Zero Pounds	This fee is for a fire, health and safety risk assessment to be carried out. This is a professional fee and to be charge for separately, as per the management agreement in place with the landlord.

37. The Applicant's position was that this charge was unreasonable because no work had been completed.
38. The Respondent told the Tribunal that in both 2022 and 2023 a report for the Property had been completed. This report set out the condition of the Property and, from this report, a list of items that needed action was made. The invoice for this work was at page 49 for 2022 and whilst the invoice was not in the bundle for 2023, the Respondent confirmed that the amount was the same for 2023.

The Tribunal's Decision – Risk Management

39. The Tribunal found that this amount was payable under the sixth schedule of the lease. The Tribunal accepted the evidence of the Respondent that a report for 2022 and 2023 had been prepared and this set out the work that was required at the Property. The Tribunal found that the charge was reasonable and accepted the evidence of the

Respondent that although there was no invoice for 2023, the amount was the same as the year 2022.

40. The Tribunal noted that the Respondent confirmed that they were not in a position to complete the remedial work identified in the reports because the Applicant had not paid the service charge. Whilst the payments made by the Applicant were not a matter for this Tribunal, the Tribunal recognised the difficulty for the Respondent to commission works if funds were not available. The Tribunal urged parties to communicate to resolve this issue.

Minor Repair – 2023 only

41. The parties’ positions in relation to minor repairs were set out in the schedule as follows:

Item	Cost	Tenant’s Comments	Landlord’s Comments
Minor Repair (2023)	£155	Total lie – Zero pounds	A provision for general minor repairs to be carried out, as per the sixth schedule, clause 2 and 15. A total cost of £155.00 was spend during 01/01/2023-31/12/2023 in respect of a lighting repair and upgrade, and £345.00 was credited back when the service charge accounts for this period were issued. Please see service charge accounts for this period.

42. At page 43 of the bundle was an invoice from Elan Building and Maintenance Ltd for £154.80. This was for attending site to conduct an emergency light survey and to send the report to the building manager, as well as a £4 parking charge. The Respondent told the Tribunal it was their view that parking was provided for under the lease.

Tribunal Decision - Minor Repairs - 2023

43. The Tribunal found that this amount was payable under the lease (paragraph 2 of the sixth schedule, with paragraph 6 allowing for travel costs to be claimed). Further the Tribunal noted the responsibility on the landlord for this emergency light survey work to be completed. The Tribunal considered the invoice at page 43 and accepted that this survey work was completed and that, using its professional judgement, the amount charged was reasonable.

Roof Repair - 2023

44. Although this did not form part of the service charge items that were disputed by the Applicant in his schedule, the Tribunal had the benefit of the actual accounts for 2023 and noted that roof repairs had been completed at a cost of £480 (the Applicant's share for this work would be £240). The Tribunal was told by the Respondent that this was for the removal of ridge and eave tiles and eave battens and replacement with breathable felt, new battens and tiles. The invoice for this work was dated 16 February 2023. As this was not a disputed item, the Tribunal made no findings; however, for completeness, the Tribunal noted that the cost of £480 for work of this nature was a reasonable charge.

Tribunal Decision for Items in Dispute 2022

45. For the disputed items for the service charge year 2022, the amounts that the Tribunal determined were as follows:

Service Charge Year 1 January 2022 to 31 December 2022

Item	Amount	Applicant's Share
Accountancy Fee	£120	£60
Management Fee	£382	£191
Out of Hours	£24	£12
Professional Fee	£40	£20

Reserve Fund	£500	£250
Risk Management	£253	126.50
TOTAL	£1,319	£659.50

46. The Tribunal therefore determined that, in respect of disputed service charges items brought to the Tribunal for the year 01/01/2022 to 31/12/2022, the sum of £1,319 was payable, of which £659.50 was payable by the Applicant.

Tribunal Decision for Items in Dispute 2023

47. The amounts that the Tribunal determined for the items that were in dispute for the service charge year 2023 were as follows:

Service Charge Year 1 January 2023 to 31 December 2023

Item	Amount	Applicant's Share
Accountancy Fee	£138	£69
Management Fee	£404	£202
Out of Hours	£30	£15
Reserve Fund	£500	£250
Risk Management	£253	£126.50
Minor Repair	£155	£77.50
TOTAL	£1,480	£740

48. The Tribunal therefore determined that, in respect of disputed service charges items brought to the Tribunal for the year 01/01/2023 to 31/12/2023, the sum of £1,480 was payable, of which £740 was payable by the Applicant.

49. Although not disputed items in the schedule before the Tribunal, the parties' attention is drawn to the comments of the Tribunal made at paragraph 33 in relation to professional fees for 2023, and at paragraph 44 in relation to roof repairs for 2023.
50. The Tribunal has made determinations for the service charges that were disputed. To ensure good property management, the Tribunal would expect that the service charges payments due are made promptly.

Application under s.20C and paragraph 5A of Schedule 11

51. In the application form, the Applicant applied for an order under section 20C of the 1985 Act and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002. The Tribunal did not make these orders as it found it would not be just and equitable given that the findings the Tribunal made confirmed the amounts charged by the Respondent.

Name: Judge Bernadette MacQueen **Date:** 1 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).