



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

**Case reference** : **LON/00AU/LSC/2023/0456**

**Property** : **106 Tollington Way, London N7 6RY**

**Applicant** : **Sameer Rana (Flat 3) and the leaseholders named on the schedule attached to the application**

**Representative** : **Mr Andrew Breuton, counsel**

**Respondent** : **Assethold Limited**

**Representative** : **Ms Wendy Banks, counsel**

**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 Tagliavini  
Mrs Alison Flynn MRICS**

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

**Date of hearing** : **11 July 2024**  
**Date of decision** : **30 July 2024**

---

**DECISION**

---

## **Decisions of the tribunal**

- (1) The tribunal makes the determinations as set out under the various headings in this Decision
- (2) The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 so that none of the landlord's costs of the tribunal proceedings may be passed to the lessees through any service or administration charge

## **The application**

1. The applicants seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act" and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act" as to the amount of service charges and administration charge payable by the applicants in respect of the service charge years 2021/2022; 2022/2023 and 2023/2024.

## **The background**

2. The subject property comprises a flat in a Victoria house converted into 5 flats.
3. In an Order dated 26 June 2024 the tribunal directed:
  4. *Given the Respondent's failure to provide any explanation as to whether or not it had complied with the Directions, I am satisfied that it would be in the interest of justice that the Respondent is barred from adducing or relying upon a statement of case or witness statement or any additional document, and the Respondent is so barred.*
  5. *This case will proceed to a hearing on 11 July 2024. The Respondent will be entitled to attend the hearing and is limited to making representations on materials already filed.*

## **The hearing**

4. At the start of the hearing the applicants relied upon a digital bundle of 432 pages. The respondent was represented by Ms Banks of counsel who acknowledged the limited role the respondent had due to above order, there having been no application made to lift the bar.

5. The issues were identified in the applicants' Statement of Case dated 26 April 2024 as:

(1) The validity of the demands for payment as the accounting period used by the respondent is unclear and the validity of the service charge accounts as they not appear to be in accordance with the Seventh Schedule of the lease, the relevant parts of which states:

*1.1 Accounting Period means a year (or part thereof) commencing on the first day of January or such other date as may be substituted therefor at the discretion of the Landlord.*

*1.2 The Total Service Cost means the Aggregate amount in each Accounting Period.*

*1.3 The Service Charge means the aggregate of the Proportion of those matters comprised in the Total Service Cost.*

*1.4 The Interim Charge means such sum to be paid on account of the Service Charge in respect of each Accounting Period as the Landlord (or its Managing Agent or Auditors) shall reasonably specify to be a fair estimate of the Service Charge that would be payable by [the] Tenant PROVIDED THAT:-*

*1.4.1 In the event of it being necessary for the Landlord to undertake urgent work to the Building or the Common Parts involving major expenditure not covered by the Interim Charge the Landlord shall have the right forthwith to demand from the Tenant the Proportion of such expenditure whereupon the same shall immediately become due and payable and shall constitute part of the Interim Charge; and*

*1.4.2 The Landlord may revise such estimate in respect of an Accounting Period during that period if it shall be fair and reasonable to do so in the circumstances.*

*2. The first payment on account of the Interim Charge .....shall be paid to the Landlord in advance by two equal instalments on the 25 March and 29 September in each year. 5. As soon as reasonably practicable after the end of each Accounting Period the Landlord or its managing agents shall supply the Tenant with a certificate containing the following information:*

.....

- 5.1 *The amount of the Total Service Cost for the Accounting Period*
- 5.2 *The amount of the Interim Charge paid by the Tenant in respect of that Accounting Period together with any surplus brought forward from the previous Accounting Period*
- 5.3 *The amount of the Service Charge in respect of the Accounting Period*
- 5.4 *The amount of the excess to be carried forward or to be paid pursuant to paragraph 3 and 3 above as the case may be.*

.....

- 7. *The said certificate and schedules shall so far as permitted by law be conclusive and binding on the parties hereto save to any patent error or omission.*

*Further, the Sixth Schedule (items falling with the Service Charge) includes the following:*

- 9. *The engagement of the services of accountants for preparing or auditing the accounts relating to and supplying certificates of expenditure in respect of the Interim Charge or the Service Charge or otherwise in connection with the management of the Building or with the Interim Charge or the Service Charge.*
- (2) The demand or payment of an Interim Charge made in September 2022 for year 2022/23 and in September 2023 for the year 2023/2024 are not payable as they can only be demanded on 25 March and 29 September of the relevant year.
  - (3) Ad hoc demands for payment of service charge costs mid-year do not fall within clause 1.4.1. of the Seventh Schedule and are invalid and are not payable.
  - (4) The reasonableness and payability of the service charge items disputed in the Scott Schedule.

**The tribunal’s decisions and reasons**

- 6. The tribunal makes its determinations as recorded in the Scott Schedule attached to this Decision and which forms part of the Decision.

### **Application under s.20C and refund of fees**

7. In the application form applied for an order under section 20C of the 1985 Act and paragraph 5 of Schedule 11 of the Commonhold and Reform Act 2002 so no costs would be passed through the service charge or as administration charges, to the applicants. The tribunal considers that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act and paragraph 5 of Schedule 11 of the 2002 Act so that the respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal to the applicants.

### **Applicant's application for r.13 costs**

8. At the end of the hearing the applicant made an application for costs under rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 having put the respondent on notice of this application. The applicant sought the sum of £4,767.60 which were said to represent the 'extra' costs incurred by having to make numerous interim applications to the tribunal that led, eventually to the debarring order.
9. The applicant asserted the respondent had met the threshold imposed by r. 13 which states:

3. —(1) The Tribunal may make an order in respect of costs only—

(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—

(i)...

(ii) a residential property case, or

(iii) a leasehold case; or

(c)...

10. Ms Banks made no submissions in respect of this application although was offered the opportunity to do so. The tribunal is not persuaded that the high bar set in r. 13 as discussed in *Willow Court Investments Ltd v* has been made. The tribunal finds the respondent largely complied with the tribunal's directions, although often late and in a piecemeal fashion. However, despite this, the tribunal finds the applicants have not been prejudiced in seeking a determination of the various issue they raised.
11. Therefore, the tribunal refuses the application for costs under r.13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. However, the tribunal considers it reasonable to direct the respondent to reimburse to the applicants both the application and hearing fees.

**Name:** Judge Tagliavini

**Date:** 30 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).

**SCOTT SCHEDULE OF DISPUTED SERVICE CHARGES FOR YEARS ENDING 31 AUGUST 2022 AND 31 AUGUST 2023 AND ACCOUNT DEMAND FOR 2023/ 2024.**

**Case Reference: LON/00AU/LSC/2023/0456 PROPERTY:**

**106 Tollington Way, London N7 6RY**

Item	Cost	Tenants' Comments	Landlord's Comments	Tribunal's decisions and reasons
1. Cleaning 2021/22 2022/23	£753.00 £926.40	Extremely poor service Attend for about 10 minutes each visit to do some vacuuming. Do not do work specified. Invoices disclosed for 22/23 total £792 not £926.40	all invoices have been included  reasonable cost for service  no alternative quote provided	The respondent is required to clean, light repair renew decorate and maintain the common parts (Sixth Schedule).  The tribunal accepts the applicants' oral and written evidence in respect of the standard of the service provided.  The tribunal reduces the costs of the cleaning for 2021/22 and 2022/23 by 20% for each year.
2. Window Cleaning 2021/22 2022/23	£260.40 £393.00	Many emails sent to Eagerstates about this work not being carried out, but no response received. Photos not of this property.	all invoices have been included and supporting images  reasonable cost for service  no alternative quote provided	The tribunal finds from all the evidence provided that some window cleaning has been provided by the respondent as permitted by the lease (The Sixth Schedule). The tribunal accepts the standard and frequency of the window cleaning has been poor.  Therefore, the tribunal allows only 50% of the sums claimed for 2021/2022 and 2022/2023.

3. Bin Cleaning 2021/22 2022/23	£1,123.20 Zero	Part of cleaning specification and never cleaned by anyone. Invoice total £979.20 not £1,123.00	all invoices provided  not part of cleaning specification	The tribunal finds that some bin cleaning has been carried out despite the applicants being unclear as to how many bins and the types that are present at the property.  The tribunal determines the total cost for this item in 2021/2022 is £979.20 and determines this sum should be reduced by 50%.
4. Management 2 Management Rainwater goods 05.10.2021	£750.00	No evidence any work done. Only one of the images is of front door is this property.	invoice provided with supporting images  no alternative quote provided	The tribunal finds that work was carried out although it accepts the extent of the work is unclear. The lease provides for the respondent to maintain repair etc. the gutters and the tribunal finds that on the balance of probabilities, some work to the gutters was carried out.  The tribunal is not persuaded by the applicants' implied argument that the invoice(s) are fabricated where they allege no work has been carried out.



				The tribunal allows the sum of £500 for this item.
5. BML Group LTD (works to flat 2) 14.10.2021	£1,416.00	Internal decorating work in flat 2 from roof leaks so not	not covered by insurance so charged to service charges	The tribunal finds this work is reasonable and payable by the applicants.

		chargeable to service charges claimed on insurance		
6. Bin Area repairs BML Group LTD 04.11.2021 06.11.2021	£390.00 £234.00	Doors were never replaced/ repaired and still don't close properly. There is no gate.	invoice provided with supporting images	The tribunal finds from the photographs provided that the work carried out was of a poor standard and therefore allows only 50% of these costs of £390.00 and £234.00.
7. Management 2 Management (flat 1) 22.11.2021	£450.00	No description of damage or the work carried out and none can be identified from inspection of the area	invoice provided with supporting images	The tribunal finds the cost of this limited work is excessive and allows only 50% of the sum claimed.
8. Fire Works ADL Fire & Safety 12.03.2022 Management fee	£4,200.00 £756.00	Excessive cost. Alternative quote £3,000 plus VAT. The ADL estimate includes items not provided but not deducted when invoiced.	this went through a consultation no alternative quotes at the time estopped from arguing this	<p>The tribunal determines the applicants are not estopped from challenging this item.</p> <p>However, the tribunal is satisfied these works were carried out although it finds they could have been reasonable carried out at a lower cost.</p> <p>Therefore, the tribunal allows the sum of £3,500 in respect of these works and 15% of this sum in respect of the managing agents' fee i.e.</p>

				£525.00
9. Property Run Contracts. (invoice for flat 3) 29.11.2021	£332.94	Fan in flat 3 replaced due to roof leak damage so not chargeable to service charges. Nearly three hours charged for a job taking minutes. Claimed on insurance.	not covered by insurance so charged to service charge	The tribunal finds this sum is reasonable and payable by the applicants.
10. BML Group LTD 30.11.2021 (removing moss)	£1,062.00	No vegetation or moss in "front yard" and report says brick work in good condition. Excessive cost.	invoice provided with supporting images	The tribunal finds this work was not reasonably required and disallows it in full.
11. Disposal Bee Green Disposal LTD 20.01.2022	£156.00	MM Building Agency invoice 21 Jan 22 says property was left clean. Unable to identify any rubbish removal. Part of insurance claim for leak.	invoice provided with supporting images	The tribunal finds on the balance of probabilities that work was not carried out as per the invoice and therefore disallows this sum in full.
12. BML Group LTD (FB1 key install) 12.02.2022	£186.60	£2 FB1 key and nail for hook to hang it on. Excessive cost.	invoice provided with supporting images	The tribunal finds the work carried out was a little more extensive than claimed by the applicants and allows this sum in full.

13. Superior Facilities Maintenance Limited 08.10.2022	£48.00	"Miscellaneous services" no details of work	invoice provided with supporting images	The tribunal is unable to determine the nature of the works that were carried out from the invoice provided. Therefore, it finds these works were unreasonable and disallows the cost in full.
14. Superior Facilities Maintenance Limited 20.08.2023  22.08.2023	£144.00  £144.00	Fire safety posters. Excessive cost for posters which can be obtained for around £10 for 5 from Amazon.  Duplicate invoice for fire safety sign that had already been put up.	invoice provided with supporting images  the sign was a bespoke sign made for the building  not an excessive cost	The tribunal finds the sum of £144 has been duplicated and therefore allows only one payment of £144 for this item of service charge.
15. Inventory BML Group LTD 03.12.2022	£90.00	No requirement for an inventory. There are no items to list in the common parts.	reasonable to carry out an assessment of the communal areas	The tribunal finds there are items in the common parts e.g. doors/light fittings/switches/sockets etc which it reasonable for the respondent to inventory and therefore allows this sum in full.
16. Superior Facilities Maintenance Ltd 21.11.2022	£950.00	Little/ no weeds in 1m square path. No hedge and no damage to wall that needed repair. No repair to a ceiling.	invoice provided with supporting images	The tribunal finds any work was limited in view of the nature and extent of the area concerned and the absence of any hedge. Therefore, the tribunal allows a sum of £100 for this item.

<p>17. External decorating works</p>	<p>£12,885.58</p>	<p>Work did not need doing. Alternative quote £4,700.00 rejected.</p> <p>No invoice disclosed.</p> <p>Not included in service charge accounts but subject</p>	<p>this went through a consultation no alternative quotes provided at the time estopped from claiming this</p>	<p>The tribunal finds the applicants are not estopped from challenging this item.</p> <p>The tribunal also determines it is the respondent's obligation to carry out works of redecoration to the exterior and may carry them out 'from time to time when reasonably necessary' (The Fifth Schedule). Although the applicants may not have wanted the works to be carried out, it is for the respondent to determine how it will carry out its obligations and in the absence of any independent evidence to suggest this work was not required, the tribunal allows this sum in full.</p>
--------------------------------------	-------------------	---	--	--

		to an <i>ad hoc</i> demand for payment so not payable		
18. Communal parts electricity 2022/2023	£963.46	Excessive costs for a couple of lights. Readings given to supplier likely wrong as no other explanation. Previously around £200 p.a.	this has been charged as per the invoices	The tribunal finds that if the charges are estimated only, they are likely to be rectified once actual meter readings are provided.
19. BML Group LTD 08.02.2022	£438.00	Brick work repairs unnecessary and excessive cost for a bit of cement between three bricks. See alternative quote.	invoice provided with supporting images	The tribunal finds these works were limited in nature and allows £100 only in respect of their cost.
20. Superior Facilities Maintenance Limited 25.04.2022	£500.00	Packing of hinge and frame of an FD30 door. Not an invoice and no work done.	invoice provided with supporting images	The tribunal finds the work and its cost was reasonable and allows the sum in full.
21. Monthly emergency lighting and smoke detector testing – JHB Fire Services 2022/2023	£624.00	Invoices total £288 not £624	all invoices provided	The tribunal finds the cost of this work to be excessive in view of its limited nature and allows 50% of the sum claimed.
22. Property Run Contracts 12.07.2022	£906.36	To follow with alternative quote.		The tribunal disallows this sum in full.
23. BNO Group Ltd (standard audit report) 15.02.2023	£1,224.00	To follow with alternative quote.		The tribunal finds this sun is reasonable and payable by the applicants.

BNO Group LTD 18.03.2023	£897.71	See above		
24. Property Run Contracts 07.03.23	£152.07	Excessive cost to change a lightbulb. Part of cleaning spec. to replace light bulbs.	invoice provided with supporting images	The tribunal finds the costs of these works to be excessive and allows 50% of each of the claimed sums.
28.04.23	£802.80	To follow with alternative quote.		
25. Insurance 2021/22 2022/23	£3,040.83 £4,135.94	Reduce to reflect portfolio discount and commissions not disclosed.	no alternative quotes provided	The tribunal finds there is no evidence to suggest the respondent did not properly use the services of a reputable broker and placed the insurance with an appropriate provider. The tribunal finds the respondent is not required to choose the cheapest of quotes and that the cost of the insurance is reasonable and payable in the sum claimed.
26. Eagerstates 2021/22 2022/23	£1,614.00 £1,638.00	Excessive cost for exceptionally poor service, undisclosed commissions received from contractors and refusal to consult or to accept alternative quotes for works.	Reasonable management fee	The tribunal finds the level of service provided from the managing agent is of poor quality and allows the sum of £200 plus VAT per flat per for 2021/2022 and 2022/2023.
27. Accountancy 2021/22 2022/23	£630.00 £600.00	Excessive cost for "accounts" which are no more than a list of expenses. Failure to comply with TECH03/11 and RICS Code and accounts are not certified by the accountants but by Eagerstates	accounts are certified by external accountant	The tribunal is satisfied the accounts have been reasonably, albeit in a rudimentary format, by Chartered accountants Martin and Heller and allows these sums in full.
28. On account demand 2023/24	Various	See witness evidence		The tribunal finds the 'Accounting Period' runs from 1 January to 31

				<p>December or such other date as may be substituted therefor at the discretion of the landlord (Seventh Schedule). Therefore, the tribunal finds the respondent's decision to use an Account Period of September to September is accordance with the provisions of the lease.</p> <p>On consideration of the Statement of accounts provided by the respondent, the tribunal determines the respondent has adopted an Accounting Period of September to September of the following year. The precise date on which the Accounting Period starts is difficult to identify as balancing charges are variously calculated on the 5<sup>th</sup> or 6<sup>th</sup> of September and the Statements do not identify the precise date when the accounting period starts.</p> <p>In addition to demanding payment of an Interim Charge due on 25 March and 29 September (regardless of the Accounting Period), the tribunal finds the respondent is entitled to make 'ad hoc' demand where urgent work is required to the Building or Common Parts.</p>
--	--	--	--	--