



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

**Case reference** : **LON/00AZ/LAC/2024/0006**

**Applicant** : **Kwame Nkrumah Wallace**

**Representative** : **N/A**

**Respondent** : **Aviva Investors GR SPV17 Limited**

**Property** : **Flat 66, Sienna Alto, Lewisham,  
London SE13 7FZ**

**Type of application** : **Liability to pay an administration  
charge**

**Tribunal member** : **Tribunal Judge I Mohabir**

**Date of decision** : **16 July 2024**

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**DECISION**

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## ***Introduction***

1. The Applicant seeks a determination under Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) as to whether administration charges are payable.
2. The Applicant also seeks an order for the limitation of the landlord's costs in the proceedings under section 20C of the Landlord and Tenant Act 1985 and an order to reduce or extinguish the tenant’s liability to pay an administration charge in respect of litigation costs, under paragraph 5A of Schedule 11 to the Act.
3. The Applicant is the leaseholder of Flat 66, Sienna Alto, Lewisham, London SE13 7FZ pursuant to a lease dated 28 March 2014 granted to him by BDW Trading Limited for a term of 125 years from 9 May 2012 (“the lease”). The Respondent is the current freeholder.
4. The Respondent’s case is that it charged the Applicant two late payment reminder fees of £48 prior to 2022 for the late payment of ground rent. Thereafter, the Respondent charges the Applicant £60 for each late payment reminder. However, from the Applicant’s statement of account disclosed by the Respondent, it appears that only one late payment fee of £48 was charged on 25 October 2018 and variously thereafter six late payment fees of £60 was charged to the Applicant. Therefore, the total administration charges claimed by the Respondent are £408. The Tribunal is not concerned about any arrears of ground rent in this application because they do not fall within the definition of administration charges.
5. Put simply, the Applicant’s case is that the administration charges are not recoverable under the terms of his lease as set out in the application. This is the only issue to be determined in this decision as directed by the Tribunal in the (amended) directions dated 12 March 2024.
6. It should be noted that the Applicant has not filed or served any evidence as directed by the Tribunal. The only evidence before the Tribunal was the evidence of the Respondent contained in the hearing bundle.

## ***Relevant Law***

7. This is set out in the Appendix annexed hereto.

## ***Decision***

8. As directed, the Tribunal’s determination “on the papers” took place on 16 July 2024 and was based solely on the documentary evidence filed by the Applicant.
9. The Respondent submitted that paragraphs 1 and 5 in Part 1 in the Eighth Schedule to the lease expressly allow for the recovery of the administration charges. This sets out the tenant’s covenants, which are enforceable by the landlord

10. By paragraph 1 the tenant covenanted to:

*“Pay the Landlord or its authorised agent the Rent hereinbefore reserved on the days and in the manner herein and provided without deduction or set off and free from any equity or counterclaim”.*

11. By paragraph 5 the tenant covenanted to:

*“To pay to the Landlord all reasonable and proper costs and expenses of or incurred by the Landlord in enforcing the payment by the Tenant of any monies payable by the Tenant under the terms of the lease”.*

12. The Tribunal did not accept the submission that paragraph 1 in the Eighth Schedule permitted the Respondent to recover the administration charges claimed because, on a proper construction of this paragraph, the tenant only covenanted to pay the rent to the landlord and the administration charges are not reserved as rent under the lease.

13. However, the Tribunal was satisfied that paragraph 5 in the Eighth Schedule does expressly permit the landlord to recover the administration charges because they have been incurred in seeking to enforce payment of the ground rent, which is contractually payable under the lease. It is common ground that the Applicant had not paid the ground rent when demanded by the Respondent, which gave rise to the late payment charges.

14. The Respondent is, therefore, entitled to recover the administration charges claimed. The quantum of the charges is not challenged by the Applicant. It follows that the Tribunal was not required to go on to consider the reasonableness of the charges.

**Name:** Tribunal Judge I  
Mohabir

**Date:** 16 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 of relevant legislation**

### **Section 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

## **Commonhold and Leasehold Reform Act 2002**

### **Schedule 11, paragraph 1**

- (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.

### **Schedule 11, paragraph 2**

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

### **Schedule 11, paragraph 5**

- (1) An application may be made to a leasehold valuation 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 a leasehold valuation 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).

#### **Schedule 11, paragraph 5A**

- (1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.
- (2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.
- (3) ...

#### **Leasehold Valuation Tribunals (Fees) (England) Regulations 2003**

##### **Regulation 9**

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).