



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

**Case reference** : **LON/00BE/LSC/2023/0488**

**Property** : **32 Sophia Square, Canada Water,  
London, SE16 5XL**

**Applicant** : **Li Long Fung Chris and Qin Yi**

**Representative** : **Li Long Fung Chris**

**Respondent** : **Holding & Management (Solitaire)  
Limited**

**Representative** : **JB Leitch Ltd (Solicitors)**

**Type of application** : **Liability to pay service charges and  
administration charges**

**Tribunal member** : **Judge Robert Latham**

**Date and Venue of  
Hearing** : **4 June 2024 at  
10 Alfred Place, London WC1E 7LR**

**Date of decision** : **5 June 2024**

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**DECISION**

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**Decisions of the Tribunal**

- (1) The Tribunal determines that the following service charges are not payable: (a) Estate Deficit 2020: £64.26; and (b) 2020 Block Deficit: £418.13.
- (2) The Tribunal determines that the following administration charges are not payable: (a) £60 and (b) £80 charged as late payment fees.
- (3) The Tribunal refuses permission to the Applicants to amend their claim to challenge further service charges and administration fees.

- (4) The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the Applicants through any service charge.
- (5) The Tribunal determines that the Respondent shall pay the Applicants £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicants.

### **The Application**

1. On 22 November 2023, the Applicants issued an application seeking determinations:
  - (i) that the following service charges are not payable: (a) Estate Deficit 2020: £64.26; and (b) 2020 Block Deficit: £418.13, pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act")
  - (ii) that the following administration charges are not payable: (a) £60 and (b) £80 charged as late payment fees, pursuant to Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act").
2. The Applicants also seeks an order for the limitation of the Respondent's costs in the proceedings under section 20C of the Landlord and Tenant Act 1985.
3. The application relates to 32 Sophia Square, Canada Water, London, SE16 5XL. This is a two bedroom flat in a purpose built block of flats. The Applicants acquired the leasehold interest on 26 February 2020. Mr Li Long Fung Chris is a solicitor. The Applicants reside in Hong Kong. They rent out their flat.
4. The Tribunal gave Directions on 14 December 2023 which were amended on 6 February 2024. There have been some complications because (i) the Applicants issued their application against the managing agents, rather than their landlord; and (ii) the need for the tribunal to make the necessary arrangements so that the Applicants could give evidence from Hong Kong. The Hong Kong Authorities have stipulated that a copy of this decision should be notified to the Honk Kong police.
5. Pursuant to the Amended Directions, on 1 March 2024, the Respondent emailed to the Applicants copies of the relevant service charge accounts and estimates for the year in dispute, together with all demands for payment of service charges and details of any payments made. This was a standard direction which was somewhat wider than was required given the limited issues in dispute.

6. On 22 March 2024, the Applicants served their Statement of Case and a Schedule of the service charge items in dispute. This was not restricted to the issues raised in their application. The claim was expanded from a dispute over £620.39 to one of £9,776.44.
7. The Amended Directions provided for the Respondent to file their Statement of Case and response to the Applicant's Schedule by 19 April.
8. On 19 April 2024, the Respondent issued an application to strike out the application pursuant to Rule 9(3) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules ("the Tribunal Rules") because the Applicants' case amounted to an abuse of process in seeking to expand the dispute vastly, failing to account for concessions offered by the Respondent, and disclosing no reasonable prospect of success as a result of the Applicants seeking to reserve their right to challenge the reasonableness and payability of service charges which ought to be front and centre of the Applicant's pleading. Alternatively, the Respondent sought further Directions in respect of the new issues which have been raised.
9. On 22 April 2024, the Applicants applied for an order debaring the Respondent from taking any further part in these proceedings unless they complied with the Directions within 7 days.

### **The Hearing**

10. The Tribunal conducted a video Case Management Hearing. Mr Li Long Fung Chris appeared for the Applicants from Hong Kong. Ms Rebecca Ackerley (Counsel) instructed by JB Leith Ltd, appeared for the Respondent. She was accompanied by Ms Elsie Parr, from her Instructing Solicitor.

### **The Tribunal's Determination**

11. In their strike out application, the Respondent agreed to credit to the Applicant's account the following sums, namely (a) Estate Deficit 2020: £64.26; and (b) 2020 Block Deficit: £418.13. They further agreed to credit administration charges totalling £288, including the two administration charges challenged in these proceedings. Ms Ackerley stated that reference to these concessions had been made in "without prejudice" correspondence. However, this was the first occasion that there had been any open acceptance that the Respondent was conceding the claim.
12. In the light of this concession, the Tribunal is satisfied that it should make the following determinations:

(i) the following service charges are not payable: (a) Estate Deficit 2020: £64.26; and (b) 2020 Block Deficit: £418.13.

(ii) the following administration charges are not payable: (a) £60 and (b) £80 charged as late payment fees.

(iii) an order should be made under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the Applicants through any service charge. It is just and equitable to do so given that the Applicants have succeeded in their claim.

(iv) the Respondent should pay the Applicants £300 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees which they have paid. Again, this is the appropriate order to make given that they have succeeded in their claim.

13. The Tribunal indicated that it would consider whether it should the Applicant permission to amend their application to include the additional challenges which they wish to raise.
14. The Tribunal first has regard to the relief sought by the Applicants in their Statement of Case:

“(1) a declaration that the Respondent and/or its agents have acted in breach of terms of the Lease and/or have derogated from the grant of the Lease;

(2) a declaration that the Respondent and/or its agents (whether collectively and/or individually) have failed to discharge their disclosure obligations to the Applicants under applicable laws and regulations (including but not limited to sections 21 and 22 of the Landlord and Tenant Act 1985);

(3) a declaration that the Respondent and/or its agents (whether collectively and/or individually) have (i) engaged in unethical and oppressive practices by compounding unjustifiable fees / expenses arising from their failed administration of the Applicants' account, (ii) unreasonably interfered with the Applicants' rights of quiet enjoyment of the Property under the covenants of the lease, and (iii) acted in contravention of section 1 of the Protection from Harassment Act 1997 (c. 40), the Protection from Eviction Act 1977 (as 12 amended by sub-sections 29(1) and (2) Housing Act 1988) and/or sections 17 and 24A of the Theft Act 1968 (c. 60);

(4) an order for disclosure of all necessary accounts and inquiries to enable the Applicants to trace the incurrence of the service charges,

estate charges, reserved funds, maintenance adjustments relating to the Estate and Property for the Maintenance Years 2020 to 2023 inclusive;

(5) an order that the Respondent be restrained by themselves, their directors, servants, agents or otherwise howsoever from engaging in further acts of intimidation or harassment against the Applicants in connection with the Compounded Demands and 2020 Deficit Charges;

(6) damages and/or equitable compensation to be assessed arising from and incidental to (1) the Respondent and/or its agents' breaches of the Lease and derogations from grant of the Lease (2) the Respondent and/or its agents' unreasonable conduct and interference with the Applicants' rights of quiet enjoyment of the Property under the covenants of the Lease and (2) the Respondent and/or its agents' contraventions of section 1 of the Protection from Harassment Act 1997 (c. 40), the Protection from Eviction Act 1977 and/or sections 17 and 24A of the Theft Act 1968 (c. 60);

(7) costs;

(8) interests; and

(9) such further and/or other relief as the Tribunal thinks fit.”

15. The Tribunal has also had regard to the Applicants' Schedule of Service Charge items in dispute. The first item challenged is a service charge demand dated 18 January 2023. It is to be noted that this demand was issued before the current application was issued. The grounds of challenge are stated to be:

“Demand Note 7704 was purportedly issued on 18 January 2023 with balances immediately brought forward and compounded with Demand Notes 7705, 7706 & 7707. The 2021 Service Charge Accounts were issued late on 30 October 2023. The Applicants have paid these charges in dispute notwithstanding that the Respondent has failed / refused to provide adequate sufficient records and information making up the charges for the 2021 Maintenance Year. The Applicants seek an order for disclosure and account by the Respondent of the charges making up this demand note. The Applicants reserve the right to further elaborate upon and challenge the reasonableness of the Respondent's charges making up the 2021 Maintenance Year upon further specific disclosure by the Respondent to the Applicants in respect of the charges and expenses accounting for the 2021 Maintenance Year.”

16. The jurisdiction of this tribunal is to determine the payability and reasonableness of service charges. It is not our role to carry out an audit of the manner in which a landlord has managed the service charge account. The Tribunal highlights the following passage from the

judgment of Martin Rodger KC, the Deputy President, in *Enterprise Home Developments LLP v Adam* [2020] UKUT 151 (LC);

“28. Much has changed since the Court of Appeal’s decision in *Yorkbrook v Batten* but one important principle remains applicable, namely that it is for the party disputing the reasonableness of sums claimed to establish a prima facie case. Where, as in this case, the sums claimed do not appear unreasonable and there is only very limited evidence that the same services could have been provided more cheaply, the FTT is not required to adopt a sceptical approach. In this case it might quite reasonably have taken the view that Mr Adam had failed to establish any ground for thinking the sums claimed had not been incurred or were not reasonable, which would have left only the question whether any item of expenditure was outside the charging provisions.”

17. The Tribunal is satisfied that it should refuse the Applicants permission to amend their claim to include these further challenges. The Tribunal has had regard to the Overriding Objective in rule 3 of the Tribunal Rules:

(i) Much of the claim is outside the jurisdiction of this Tribunal which is limited to determining the payability and reasonableness of service charges. It has no jurisdiction to grant declaratory relief, damages, equitable compensation or interest. It is normally a “no costs” jurisdiction.

(ii) The Respondent has disclosed copies of the relevant service charge accounts and estimates for the year in dispute, together with all demands for payment of service charges and details of any payments made. The Applicants therefore have had the material required to formulate any claim that a service charge item is not payable pursuant to the terms of their lease or is unreasonable.

(iii) The Applicants seem to be embarking on no more than a fishing expedition.

(iv) The sums demanded were paid without protest.

18. Before issuing any application to this Tribunal, any applicant should consider how they wish to formulate their claim. These Applicants have failed to do so. Mr Li is a solicitor. He should be aware of the jurisdiction of this tribunal and the need to conduct litigation in a proportionate manner.

**Judge Robert Latham**  
**5 June 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).