



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

Case Reference : LON/00BE/LSC/2022/0022

Property : 27 St Saviours Wharf and Car Park,
Mill Street, London SE1 2BE

Applicant : St Saviours Wharf Co Ltd
(“St SWCL”)

Representative : Mr Neil Chapman
(Director of St SWCL)

Respondent : Mrs Anne Elizabeth Pounds

Representative : In Person

Type of Application : Application for the determination of
the liability to pay and
reasonableness of service and
administration charges

Tribunal : Mr Ian B Holdsworth FRICS MCI Arb
Mr A Parkinson MRICS MIRPM
Mr O Dowty MRICS

**Date and venue of
hearing** : 14 July 2022
10 Alfred Place London WC1E 7LR

Date of Correction : 24 March 2023

DECISION

At the request of the applicant a clerical mistake in the original decision is corrected in this amended decision, under rule 50 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Decisions of the Tribunal

1. The Tribunal determines a service charge of **£5,982.40** is payable by the Respondent leaseholder for the service charge year 2020.
2. This matter is now transferred to the Liverpool County Court under case number H3OLVO55 for these matters and the retained matters including any claims for arrears of ground rent, interest, and costs to be determined.
3. The Respondent has failed to comply with Tribunal directions issued following the Case Management hearing or participate in the face-to-face hearing. No excuse was provided by the Applicant for these actions or behaviour. The Tribunal conclude the Respondent has shown contempt for the First-tier-Tribunal through her lack of engagement and ask that this behaviour be considered by the District Judge when determining any costs.

The Application

4. Following a transfer from the County Court the Tribunal is required to make a determination under Section 27A of the Landlord and Tenant Act 1985 as to whether service charges are payable and under schedule 11 the Commonhold and Leasehold Reform Act 2002 as to whether administration charges are payable.
5. The claim relates to the service charges in year 2020.
6. This matter is not transferred to the Tribunal under the Deployment Scheme to determine. On 7 October 2021 District Judge Dean sitting at The County Court in Liverpool transferred to the Tribunal a request to determine only the reasonableness and payability of the 2020 service charges. All other matters in dispute are retained by the County Court including claims for arrears of ground rent, interest and costs.
7. An oral case management hearing (CMH) took place by telephone conferencing on 10th March 2022. This was attended by Mr Neil Chapman (a Director of the Applicant company) and a Ms Stephanie Winn the managing agent from Rendall & Rittner. The Respondent Mrs Anne Pounds also attended.
8. The Tribunal prepared initial directions dated 10 March 2022. These were then varied following a subsequent CMH held on 12 May 2022.
9. The total value of the dispute when the Application was made is £6,317.87.
10. On 12 May 2022 the Tribunal gave amended directions on this matter. The directions identified that the claim relates to the following charges for the service charge year 2020:
 - A service charge for the building amounting to **£1,941.96**.
 - A reserve fund charge for the building to **£2,157.30**.
 - A service charge for the residential component of **£1,045.48**.
 - A reserve fund charge for the residential component of **£337.00**.

- A car park service charge of **£603.83**.
- A car park charge for the reserve fund of **£214.30**; and
- An administrative fee of **£18.00**.

Commented [AP1]: I get a total of these sums being £6317.87. ie £18 less than the para 9 figure/

The Hearing

11. The Applicants were represented by Mr Neil Chapman and Mr Gino Iovino, both Directors of St Saviours Wharf Co Ltd (“St SWCL”) Stephanie Winn from the managing agent Rendall & Rittner also attended the hearing.
12. The hearing bundle was prepared by the Applicant and consisted of some 117 pages. The Respondent Mrs Anne Pounds did not attend the hearing. She did not make any written submission for consideration at the hearing or engage with Tribunal following the CMH.
13. The Applicant did not request an inspection and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.
14. Following the hearing and a review of the submitted materials, the Tribunal made a request to the Applicants for further information about the service charge expenditure.
15. These supplementary enquiries included specific questions about the type and extent of general repair work charged to the service charge. They also requested a justification for the legal charges made by the lawyers instructed by the Directors of St SWCL. There was a delay in the provision of this information by the Applicant with it being finally provided to Tribunal in early November 2022.
16. Tribunal has relied upon written submissions, oral testimony, and the outcome from the supplementary enquiries in their determination.

The property

17. The subject property is a six storey former wharfage and warehouse adjacent to the River Thames. It was converted during the early 1980’s into 47 residential flats, 11 commercial units and an underground car park.
18. A brief description of the property is contained in the management company’s case and submitted in the bundle at page 32 {P32}.

The Law

19. The relevant legal provisions are set out in Appendix A to this decision.

The Lease provisions

20. A copy of the lease for Flat 27 between Mrs Anne Elizabeth Pounds and St Saviours Wharf Co Ltd dated 13 October 2017 was provided to Tribunal. This is the “**residential lease**”. A separate lease between the same parties

also dated 13 October 2017 is provided for parking space E, at the property. This is the “**car park lease.**” The residential lease and car park lease are both relevant leases in the determination of the service charges payable.

21. A table submitted at P7 of the bundle is inset below which identifies the relevant clauses in the residential lease and the car park lease.

Cost Type	Relevant Clause	
	Residential lease clause	Car Park lease
Property costs		
Caretaking	6.01.4 & 6.01.5	6.01.1(e), 6.01.3, 6.01.4 & 6.01.5
Cleaning	6.01.3	6.01.4
Electricity	6.01.3 & 6.01.5	6.01.4
Water	6.01.6 & 6.01.4	6.01.3
Insurance	4.01 & 6.01.13	4.01, 6.01.3 & 6.01.8
Port of London Fees	6.01.4 & 6.01.11	6.01.3 & 6.01.8
Maintenance & Service Costs	6.01.1 and 6.01.11	6.01.1 & 6.01.8
Equipment Maintenance		
Pest control	6.01.11	6.01.8
Lifts	6.01.13	n/a
Fire alarm/health and safety	6.01.11	6.01.8
Fire extinguishers/health and safety	6.01.09	6.01.6
Car park entrance	n/a	6.01.1 & 6.01.8
General Repairs & Decorations	6.01.1 & 6.01.2	6.01.1, 6.01.2 & 6.01.8
Garden – lobby & flowers	6.01.3, 6.01.5 & 6.01.11	n/a
Administration Costs		
Management and professional fees	6.01.7(a) & (b), and 6.01.11	6.01.5(a) & (b), and & 6.01.8

22. The Applicants referred the Tribunal to several clauses in the Applicants lease pertinent to St SW CL right to demand and receive service charges. They are clauses 4.01, 6.01 and the Second Schedule of the residential lease.

23. Clause 4.01 of the residential lease states:

“THE TENANT HEREBY FURTHER COVENANTS with the Landlord that he will in the manner hereinafter provided pay to the Landlord 3.5715%... or equitable in accordance with Clause 7.04 hereinafter called the contribution of the reasonable costs and expenses incurred by the Landlord in compliance with its obligations under Clause 6.01 hereof and of all other costs and expenses incurred in the management of the Building together with the insurance and other premiums payable by the Landlord together with such monies as the Landlord shall at its sole discretion deem appropriate to build up a reasonable reserve to meet the maintenance expenditure of subsequent years (hereinafter called ‘the Expenditure’).”

24. Clause 6.01.1:

“To maintain and keep in good and substantial repair and condition the Reserved Property being:-

- (a) *the main structure of the Building including the principal internal timbers and the exterior walls and any other structural walls and the foundations and roof thereof with its main water tanks, main drains, gutters and rain water pipes (other than those included in this demise or in the demise of any other flat or commercial unit or parking space...).*
- (b) *all such gas and water mains and pipes drains waste water and sewage ducts and electric cables and wires as may by virtue of the terms of this lease be enjoyed or used by the Tenant in common with the owners.*
- (c) *the common parts.*
- (d) *the boundary walls and fences of the Building.*
- (e) *the flat or flats or accommodation occupied or used by any caretakers, porters, maintenance staff or other persons employed by the Landlord in the provisions of the sub-clause 6.01.4 of this clause.*
- (f) *all other parts of the Building not included in the foregoing subparagraphs (a) to (e) and not included in this demise or the demise of any other flat or part of the Building.”*

25. The Second schedule in the Flat 27 residential lease prescribes the percentages to be applied when apportioning general maintenance costs and expenditure between residential and commercial leases. The relevant percentages for the Applicant are 1.269% for category A and 1.685% for category B . The Applicant also has a liability to pay 3.5715% of the car park costs under the car park lease.

26. The authority to make reserve fund charges is provided at Clause 6.01.12 of the residential lease. This clause states:

“To set aside reasonable sums to meet such future costs as the company shall reasonably expect to incur replacing, maintaining and renewing the items they are covenanted to replace, maintain or renew.”

The Issues

Payability and reasonableness Amount claimed

- 27. The Tribunal relied upon the income and expenditure account for year ended 31 December 2020 submitted in the bundle at P 46 as the primary source at the hearing.
- 28. These accounts submitted by Rendall & Rittner were audited by Sproull & Co Chartered Accountants. The Tribunal relied upon the consolidated schedule and reviewed the expenditure on an item-by-item basis.

29. The Tribunal requested additional financial information following the hearing. An expenditure report for year 2020 was subsequently provided to Tribunal following this request. They have scrutinised the details of the expenditure and reviewed the justification of the expenditure.
30. The findings of the Tribunal rely upon the written and oral submissions of the Applicants. The Tribunal assessed both the payability and reasonableness of each sum allocated to the Year 2020 expenditure under the relevant leases.
31. Their findings from these queries are reported at **Appendix B appended to this decision**. Table 1 at the Appendix lists each item of expenditure as listed in the Income and Expenditure account. The expenditure is appraised and an explanation for the Tribunal findings provided.

Summary of findings

32. The Tribunal find that all the service charges made by St SWCL in service charge year 2020 are payable and reasonable save for:
- The administration charge of £18.00 is disallowed. It is the opinion of the Tribunal that this is not provided for within the provision of the lease;
 - A payment of £240 to J B Leitch & Co Solicitors, which the Applicants informed the Tribunal was included in error having already been charged to an individual leaseholder.
 - The legal fees payable to Godwin Derrick, solicitors. After scrutiny the Tribunal has determined these are unreasonable for the work described in the limited supporting information provided by the Applicants. The charges are discounted by 25% leaving £17,802 payable.; and
 - The cost of reinstatement works following water ingress amounting to £3,545. The Tribunal has concluded these costs less excess should have been recovered under the building insurance policy.
33. A detailed explanation of the finding for each service charge expense based upon the supplied information is at **column 3 in Table 1, at Appendix B** of this decision. The specific lease clause that justifies payability is at column 4 and charge payable at column 5.
34. The Tribunal were not satisfied an Administration charge is payable under the residential or car park lease clauses and concluded this sum is not recoverable.
35. Supplementary information is supplied by the Applicants on the legal fees and charges following a detailed request from Tribunal. This request identified specific costs and sought clear justification for a limited number

of expenditure headings. Despite the efforts by Tribunal to make data collection and provision easier, St SWCL still failed to provide time sheets with a description of the work undertaken to justify the legal charges.

36. The Tribunal are unable to reconcile the legal charges with the work undertaken. They do not accept all the legal work on this matter needed to be carried out by senior staff at charge out rates ranging from £380 -£420 per hour. After careful consideration of the limited information provided and based on the experience and knowledge of the Tribunal of similar tasks a reduction of 25% is made to the charged costs of £23,760. On this basis a sum of £17,820 is determined as payable.
37. At the hearing the Applicants failed to provide a breakdown of the maintenance costs. This was subsequently presented to Tribunal following further enquiries. The Tribunal reviewed the expenditure and again based upon limited information identified several expenditure items which were likely to be rechargeable under the Building Insurance policy. Many of these charges are sums that do not exceed the £350 excess on the policy. The most significant of these is the £3,545 spent on water ingress reinstatement works at flat 42. The Tribunal are unable to deduce from the submitted information why this sum was not reclaimed from the insurer. It is accepted an excess of £350 would have been payable under the policy but Tribunal determine the balance of the charge is not recoverable. This amounts to a sum of £3,195.
38. The total service charge made in 2020 by St SWCL deemed either not payable or unreasonable after review by Tribunal is £9,393. The Applicant under residential lease clause 4.01 is liable to pay 3.5715 % of the total sum of the disallowed charges. This equates to **£335.47**. This amount is deducted from the total service charge demanded of £6,317.87.
39. Accordingly, the Tribunal determine the Respondent has liability to pay **£5,982.40** as service charges to St SWCL for the service charge year ~~2022-2020~~.
40. This matter should now be transferred to the Liverpool County Court under case number H3OLVO55 together with any retained matters including claims for arrears of ground rent, interest and costs to be determined.

Chairman: I B Holdsworth

Dated: 15 February 2023

Appendix A : Appendix of relevant legislation

Appendix B: Review of St Saviours Wharf Service Charge Expenditure 2020

Appendix A

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
 - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
 - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
 - (a) "costs" includes overheads, and
 - (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
 - (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

- (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.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) 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.

Appendix B

Review of St Saviours Wharf Service Charge Expenditure 2020

Expenditure Type	Amount Spent and Claimed £	Explanation/Justification of Expenditure	Payable Under Residential Lease (car park lease) clauses	Amount Payable £
Contracts, maintenance, and services				
Air conditioning and ventilation maintenance	540	This sum is payable for maintenance and of the essential ventilation provided to the common areas as part of the fire safety requirements.	6.01.1	540
Caretaking costs	26,109	The Applicants explained the porter is provided 5 days per week from 8.00am until 6.00pm. The costs of provision of a flat is also included in this sum. This is estimated at an annual rent of £9,000 per annum, of which 70% is allocated to the charges.	6.01.11, 6.01.4 & 6.01.5	26,109
Car park estate costs	2,000	The car park maintenance is shared between St Saviours Wharf and an adjacent property. There are 28 spaces in the car park. These monies pay for maintenance of the internal areas. The Applicants explained there was a ramp from the adjacent property which leads to the car park area. The costs of maintenance of this ramp are shared.	6.01.1 & 6.01.11	2,000
Car park maintenance	2,133	These costs are also shared with the adjacent property and include repairs and maintenance to the car park areas.	6.01.1	2,133
CCTV and access control systems	3,302	The Applicants explained that the CCTV and access control systems include the commercial units and car park. A proportion of the monies is allocated to the commercial units, and	6.01 c-f	3,302

		this is reflected in the proportion charged to the leaseholder of this sum.		
Cleaning	13,748	A cleaner visit daily to the premises to clean all common areas. The Applicants advised the cleaner devotes approximately 2-3 hours per day, equivalent to some 15 hours per week. The common areas extend over 6 floors. The contract for cleaning is competitively tendered every 2-3 years. The contract is let on a 364 day term. There was no submission from the Respondent that the cleaning was inadequate.	6.01.3 & 6.01.4	13,748
Door entryphone systems	277	This is a maintenance contract with annual charges.	6.01 c-f	277
Window cleaning	1,024	This sum is for cleaning of the communal windows and gutters. The communal windows are cleaned every quarter and the guttering every 6 months. The design of the property requires regular cleaning of the guttering to avoid build-up of debris and potential damage to the property.	6.01.11, 6.01.4 & 6.01.5	1,024
Lift maintenance	4,319	A lift maintenance contract is in place with Kone which covers the 2 lifts at the property. There is also a lift consultant Hilex and lift maintenance insurance included in this sum.	6.01.13	4,319
Fire safety and equipment maintenance	6,387	The property has heat sensors and fire and smoke sensors throughout the communal units. There are also electrically controlled extractors in the ceilings of the communal units. The fire alarms are checked on a quarterly basis as are the emergency doors. The sprinkler system is checked on a 6 monthly cycle. There is a maintenance contract	6.01.09	6,387

		which includes the cost of callouts.		
Water testing	648	The water tanks are checked on a 6 monthly basis in accordance with best practice procedures.	6.01.1	648
Floral arrangements and window boxes	2,926	The Applicants advise that the property has a series of large planters. A gardener and florist maintain these planters with weekly changes to the floral arrangements. The planters are in a communal area.	6.1.03, .5 .11	2,926
General maintenance and repairs	19,753	No information was made available about the type and frequency of this maintenance and repairs. The Tribunal made a request for further information so that they could determine the type of work that has been carried out under this heading and the validity of the expenditure. After review of the supplementary information submitted it was concluded the roof maintenance costs should have been recovered from the insurer under the Building Insurance policy. A sum of £3,195 was deemed unreasonable and deducted from the allowable charges.	Various clauses	16,558
Lighting repairs and maintenance	198	This is lighting in the common areas only.		198
Health and safety	2,699	The Tribunal noted that this was almost 4 times the budget figure. The Applicants claim that it was due to supplementary charges made following a review of the Health and Safety provisions at the property. Further details were provided of this additional expenditure in the supplementary information.	6.1.11	2,699
Pest control	750	This is pest control in the common areas.	6.01.1	6.01.2

Port of London Authority licence	24,081	The Tribunal sought detailed justification for these costs. They were advised that these are payments made to the Port of London Authority for the balconies and openings which front the River Thames. The licence agreement was recently renewed by the St Saviours Wharf Company Ltd. The details of the charges incurred were provided to the Tribunal. These are statutory charges made by the PLA of all frontage users.	6.01.4, 6.01.11, 6.1.3, 6.1.8	24,081
Utilities				
Electricity	10,636	The Tribunal were told that the contract for electricity to the common areas and estate areas is through an annual contract. The electricity is for the common areas.	6.1.3, 6.1.5, (6.1.4)	10,636
Water rates	13,000	The Tribunal were told that this charge includes the water supply to the caretakers flat, estate and all common areas.	6.1.6, 6.1.4 (6.1.3)	13,000
Insurance				
Building, engineering, and terrorism	43,291	The St Saviours Wharf Company Ltd secured this Building, Engineering and Terrorism Insurance after taking advice from an insurance broker and seeking a number of quotes. No details of these quotes were provided but based on the knowledge and experience of the Tribunal this sum is considered appropriate for 47 residential units and 8 commercial units plus car parking.	4.01, 6.1.13 (4.01, 6.01.3, and 6.01.8)	43,291
Professional Fees				
Accountancy fees	2,323	The Tribunal considered this a reasonable sum for preparation of the audited accounts.	6.01.7(a) & (b), and 6.01.11	2,323

Management fees	29,105	The Tribunal were told after detailed enquiry that this sum is made up as follows: £376.47 per unit for management £41.40 per car parking space This amounts to £22,984 P Porter management costs and additional costs of £6,121 are also payable. This equates to £619 per unit which although above average for this service was deemed to fall within acceptable tolerances.	6.01.7(a) & (b), and 6.01.11	29,105
Directors' insurance	636	These are reasonable fees for indemnification of the directors.	6.01.7(a) & (b), and 6.01.11	636
Professional charges	23,760	The Applicants advised the Tribunal that these costs were incurred in negotiating a new licence with the Port of London Authority. They are mostly legal fees charged by the consultant lawyers in provision of advice. They do not include the charges made by PLA. Details of the professional charges were requested at Tribunal to ensure they could be validated. Supplementary information provided by the Respondents failed to assuage the Tribunal concern about reasonableness of charges. The Tribunal made a 25% deduction based upon their knowledge, experience and limited information provided by the Applicant.	6.01.7 a , b 6..01..11 (6.01.5 a and b, 6.01.8)	17,820
Contribution to reserve	196,024	The reserve contribution is based upon a forward works plan. This forward works plan is agreed after taking professional surveying advice on future maintenance responsibilities at the property. An inspection by advisors is made every 2-3 years. The costs of the	6.01.12	196,024

		likely works are based on either experience of previous maintenance cycles or advice provided by the professional advisors. This cyclical maintenance programme is the basis upon which reserve contributions are sought. The annual amounts charged vary according to the programmed works. The Tribunal were satisfied that the monies sought as contribution to the reserve in 2020 were reasonable.		
TOTAL EXPENDITURE	430,733		The Total allowed is	421,340

RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.