



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

**Case reference** : **LON/00AP/LSC/2022/0312**

**Property** : **Connaught House, Connaught Gardens,  
London, N10 3LH**

**Applicant** : **Jacob Collins and several other lessees  
listed in the application**

**Representative** : **Mr Wiles, Prime Property Management**

**Respondent** : **Tucana Overseas Ltd**

**Representative** : **Eagerstates Ltd**

**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** : **Tribunal Judge MacQueen  
Tribunal Judge Dutton  
Tribunal Member Wheeler**

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

**Date of decision** : **24<sup>th</sup> October 2023**

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**DECISION**

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**Decisions of the tribunal**

1. The tribunal determines that the sum of £23, 529.10 is payable by the Applicant in respect of the service charges for the year 2020/21. This comprises of £17, 422.27 , which the Applicant agrees is payable and £

6, 106.83 which the tribunal has determined is payable at the hearing on 24<sup>th</sup> October 2023.

2. The tribunal sets out its reasons for its decision within the Scott Schedule below.
3. 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 lessees through any service charge.
4. The tribunal determines that the Respondent shall pay the Applicant within 28 days of this Decision, reimbursement of the tribunal fees paid by the Applicant.
5. The tribunal makes an order under 5A Schedule 11 of the Commonhold and Leasehold Reform Act 2002 that there is no liability to pay administration charge in respect of litigation costs.

### **The Hearing on 24<sup>th</sup> October 2023**

6. Mr Wiles appeared on behalf of the Applicants, however the Respondent did not appear and was not represented.

### **Application for Adjournment**

7. On 23<sup>rd</sup> October 2023, the Respondent sent to the tribunal a written application for the hearing on 24<sup>th</sup> October 2023 to be adjourned. The Respondent requested the adjournment on the basis of matters around the world (the situation in Israel) and stated that the Respondent can't attend the hearing because of personal circumstances related to people on the front line. The respondent further stated that he tried to arrange representation for the hearing but was unable to at short notice.
8. The tribunal considered the Respondent's application and decided that the hearing should proceed. This is because the application for an adjournment was not made until 23<sup>rd</sup> October 2023. The situation in Israel has been ongoing for just over two weeks and therefore the Respondent should have arranged representation sooner. Additionally, the tribunal noted that the Respondent has not complied with Directions made in this case, in particular to prepare a hearing bundle, and has not provided an explanation as to why Directions have not been followed. The tribunal therefore decided to proceed with the hearing.
9. Additionally, the Respondent requests an adjournment because he is not clear who the Applicant is. The tribunal does not find that this is a reason to grant an adjournment. This is because within the bundle is a list of lessees and so it is clear what this application relates to.

### **The Application**

10. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”), section 20 (c) of the Landlord and Tenant Act 1985 and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”). This is to determine the amount of service charges and administration charges payable by the Applicant in respect of the service charge years 2020/21. This is for the period 24<sup>th</sup> March 2020 to 10<sup>th</sup> July 2020. After 10<sup>th</sup> July 2020 a Right to Manage Company was formed.

### **The background**

11. The property which is the subject of this application is a purpose built block of 26 flats.
12. Following this application being made to the Tribunal, Directions dated 2<sup>nd</sup> October 2022 required the Respondent to provide a digital, indexed bundle of documents for use at the hearing by 27<sup>th</sup> February 2023. This Direction was amended on 2<sup>nd</sup> February 2023 to extend time for the bundle to be provided by 2<sup>nd</sup> June 2023. On 29<sup>th</sup> June 2023, the Direction was extended again to allow the Respondent to provide the bundle by 21<sup>st</sup> August 2023. The Respondent has not provided the bundle and so the Tribunal used the bundle prepared by the Applicant for the hearing.
13. The tribunal did not consider that inspecting the property was necessary or proportionate to the issues in dispute. Additionally, neither party requested an inspection. A site plan was provided at page 68 of the bundle and photographs of the building were provided at pages 70, 111 and 112 of the bundle.
14. The tenants hold long leases of the property which requires the landlord to provide services for which the tenants contribute by way of a variable service charge.

### **The issues**

15. A Scott Schedule has been provided which contains the Applicant's and Respondent's positions. The tribunal used this schedule to set out the matters in dispute and record its findings. The matters that need to be determined can be summarised as follows:
  - (i) The payability and/or reasonableness of service charges for year 2020/21 as far as they are marked as not agreed on the Scott Schedule.
  - (ii) Whether an order should be made under 20 (c ) Landlord and Tenant Act 1985.
  - (iii) Whether an order should be made under 5A Schedule 11 Commonhold and Leasehold Reform Act 2002
  - (iv) Whether an order for reimbursement of the application and hearing fees should be made.
  
16. Having read the documents provided within the bundle for the hearing and heard submissions from Mr Wiles on behalf of the Applicant the tribunal has made determinations on the various issues as follows:

**SCHEDULE**

**DISPUTED SERVICE CHARGES S/C YEAR ENDED March 2020 – July 2020**

Case Reference: LON/00AP/LSC/2022/ 0312	Premises: Connaught House, Connaught Gardens, London, N10 3LH
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<b>ITEM</b>	<b>COST</b>	<b>TENANT'S COMMENTS *</b>	<b>LANDLORD'S COMMENTS *</b>	<b>LEAVE BLANK (FOR THE TRIBUNAL)</b>
Electricity	£1,422.54	No queries.		£1 422.54 chargeable
Cleaning	£5,208.00	<p>Eagerstates actual expenditure for the year 19/20 was £7,126.80. Their estimate for 20/21 was £7,200.</p> <p>109/365 days of £7,200 equates to £2,150 which is less than half of the expenditure being claimed.</p> <p>Since the RTM took over, communal cleaning has been carried out for £2,269.20 in 21/22 and £2,397.60 in 22/23.</p> <p>In addition, we have not been provided with any invoice evidence</p>	<p><i>This is based on the expenses incurred as per the attached spreadsheet.</i></p> <p><i>It can be seen that these costs were indeed incurred.</i></p> <p><i>In the previous year the cleaning had not been weekly for the full period, and some of the period it was carried</i></p>	<p>The tribunal considered the three invoices that have been provided namely Doves 48556 1 June 2020 £872.40 (applies to May cleaning)</p> <p>Doves 49301 1 July 2020 £865.80 (applies to June)</p> <p>Doves 49966 1 Aug 2020 £865.80 (applies to July). Whilst it is accepted that the invoice for July is not fully payable because the relevant period ends on 10<sup>th</sup> July 2020, an invoice is not provided for the period 24<sup>th</sup> March 2020 to May 2020. The tribunal therefore determines that the total of these three invoices represents a reasonable charge for cleaning for the 2020/21 period. We note that the Applicant states that the cleaning company used since the RTM took over has been cheaper, however we find that the cost</p>

		<p>to substantiate this expenditure, so have no comfort that it has been properly incurred.</p> <p>During the period, there was no noticeable increase in the quality or frequency of cleaning and no provisions or extra services for COVID. Were it not for RTM this bill would extrapolate to &gt; £15,000 per annum.</p> <p>The RTM took over in the middle of the pandemic and were able to quickly instate a new contractor for 1/5 of this to do a far superior job.</p> <p>Further comments 26July</p> <p>Only three invoices have been provided:  Doves 48556 1Jun2020 £872.40 (applies to May cleaning)  Doves 49301 1July2020 £865.80 (applies to June)  Doves 49966 1Aug2020 £865.80 (applies to July).</p>	<p><i>out fortnightly. This explains the difference between the costs for the previous year and the costs for this year</i></p>	<p>of the company used by the Respondent is not unreasonable.</p> <p>We therefore determine that the service charge amount for cleaning services is</p> <p style="text-align: center;">£2 604.00</p>
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		<p>We consider a weekly frequency to be excessive and the costs to be very high, so invoices 48556 and 49301 are disputed on this basis.</p> <p>We enclose an invoice from an alternative cleaning company (Regent invoice 22561). These are the current cleaners. Even 3 years later the costs are substantially less – even if the frequency was doubled (to match the Doves frequency) the cost would only be £417.60 inc vat) – less than half the Doves invoices. Invoice 49966 cannot be charged in full as the RTM took effect on 10Jul2020 (allow 50% - max two visits).</p> <p>We therefore will accept a total of 2.5 months of the value of the Regent invoices (at weekly intervals) - £1044.</p>		
Gardening	£2,118.00	The site at Connaught House is a bricked driveway with some small flower beds at the front of the property. Gardeners are responsible	<i>As per the attached spreadsheet</i>	Having considered the plan and the photographs included within the bundle, it is clear that the gardening services are for bricked driveways and small flower beds at the front of the property.



		<p>for treating the brickwork for weeds, tending to the flower beds and sweeping leaves.</p> <p>Eagerstates' gardening expenditure in the year 19/20 was £1,368 and they budgeted £1,400 in the estimate sent out on 2 March 2020. To date under the RTM, superior gardening services have been carried out for £1,200 per annum.</p> <p>To have overspent the £1,400 estimate in 109/365 days by £718 (51%) is not reasonable.</p> <p>We have not been provided with any invoice evidence to substantiate this expenditure, so have no comfort that it has been properly incurred.</p> <p>Further comments 26July</p> <p>Invoices totaling £1782 have been provided (9 invoices at £198 each). However: Inv 5306 is for Nov2020 period</p>		<p>The tribunal considered the invoices provided and accepted the monthly rate of £198.00. Therefore, for three and a half months (24th March 2020 to 10th July 2020) this would amount to a charge of £693.00. We find that this is a reasonable amount for the provision of gardening services.</p> <p>The amount payable is therefore:</p> <p>£693.00</p>
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		<p>Inv 5269 is for Oct2020  Inv 5204 is for Sep2020  Inv 5146 is for Aug2020  None of these invoices can be charged as they are post RTM.</p> <p>This leaves 5 invoices totalling £990. As indicated above, the costs are excessive (at £198/month), and strangely significantly increased from previous FYs.</p> <p>We have a quote from an alternative gardener at £1080+vat/year, and an invoice from the current gardener for one month's services at £105 inc vat.</p> <p>Pictures of the common parts and a google image of the site is attached – it can be seen that the gardening requirement is absolutely minimal.</p> <p>As such, we will accept 3.5 months costs at £108/month (the higher of the above two) - £378.</p>		
Lift	£3,323.35	No queries.		£3 323.35 chargeable.

Window Cleaning	£330.00	Not material, in line with budget. No queries.		£330.00 chargeable
Guttering works	£1,140.00	<p>We have not been provided with any invoice evidence to substantiate this expenditure, so have no comfort that it has been properly incurred.</p> <p>Further comments 26 July No invoices have been provided. Remains in dispute. We cannot provide any more detail on the reasons for objection as we have no knowledge as to the claimed reasons for expenditure. It is for the Respondent to evidence this expenditure and if he is unable it should be disallowed.</p>	<i>As per the attached Spreadsheet</i>	<p>The tribunal finds that there is no evidence of this work taking place. This work is not mentioned in the list of expenses and additionally Mr Wiles on behalf of the tenants told the tribunal in his submissions that the tenants were not aware of any guttering work. We therefore do not accept this charge and find that this charge is not payable.</p>
Lift Line	£232.41	<p>Prior to the RTM taking over and a line being installed in June 2021, there was no functioning lift line and many call outs were made to the fire brigade by those trapped in the lift.</p> <p>While the amount is small we have no comfort that a service was provided and therefore would like to see proof that these costs were</p>	<i>As per the attached spreadsheet</i>	<p>Four invoices for Alfonica are included within the schedule, however these do not relate to the period the tribunal is dealing with, namely 24<sup>th</sup> March 2020 to 10<sup>th</sup> July 2020. However, the monthly amount for this service is given and the tribunal finds that the lift line service would have been paid for by the landlord. We therefore find that taking the monthly amount of £36.78 over the period 24<sup>th</sup> March 2020 and 10<sup>th</sup> July 2020 £128.73 is payable. The service charge for this period is therefore:</p>

		<p>reasonably incurred.</p> <p>Further comments 26July Some invoices have been provided: Alfonica 212538 6Jul2020 £36.71 Alfonica 217014 4Aug2020 £36.78 Alfonica 221512 3Sep2020 £36.78 Alfonica 235503 2Dec2020 £36.71 The invoices bill for the previous month – clearly the final two cannot be charged as this was post RTM acquisition.</p> <p>Therefore £73.49 is accepted.</p>		
Leak Investigations	£3,795.72	<p>There have been leak repairs so this may be valid, however we have not been provided with any invoice evidence to substantiate this expenditure, so have no comfort that it has been properly incurred.</p> <p>Further comments 26July No invoices have been provided. Remains in dispute. We cannot provide any more detail on the reasons for objection as we have no knowledge as to the claimed reasons for expenditure. It is for the</p>	<i>As per the attached spreadhseet</i>	<p>The tribunal was not able to identify work that could be attributable to leak investigation from the expenditure sheet provided. The tribunal therefore finds that given the lack of invoices provided, and the tenants not being aware of this work, the charge is to be disallowed.</p>

		Respondent to evidence this expenditure and if he is unable it should be disallowed.		
Leak repairs	£468.00	<p>We have not been provided with any invoice evidence to substantiate this expenditure, so have no comfort that it has been properly incurred.</p> <p>Further comments 26July No invoices have been provided. Remains in dispute. We cannot provide any more detail on the reasons for objection as we have no knowledge as to the claimed reasons for expenditure. It is for the Respondent to evidence this expenditure and if he is unable it should be disallowed.</p>	<i>As per the attached spreadhseet</i>	The tribunal was not able to identify work that could be attributable to leak repairs from the expenditure sheet provided. The tribunal therefore finds that given the lack of invoices provided and the tenants not being aware of this work, the charge is to be disallowed.
FHS Services & Maintenance	£1,892.52	<p>It is not clear at all what this relates to and we have not been provided with any invoice evidence to substantiate this expenditure, so have no comfort that it has been properly incurred.</p> <p>Further comments 26July</p>	<i>As per the attached spreadhseet</i>	<p>Three invoices have been provided to the tenants and are accepted. These invoices are: EFP 17 Jun2020 £202.80 Doves 50975 1 Sep2020 £108 Doves 48800 1 Jun2020 £162</p> <p>Whilst the invoice from Doves 40975 is dated 1<sup>st</sup> September 2020, which is</p>

		<p>This appears to be fire and H&amp;S testing/maintenance. The amount charged does not appear to correlate with the Respondent's spreadsheet.</p> <p>The following invoices have been provided:  EFP 17Jun2020 £202.80  Doves 50975 1Sep2020 £108  Doves 48800 1Jun2020 £162</p> <p>These invoices are accepted – the total accepted is therefore £472.80.</p>		<p>outside the relevant period, the Applicant accepts that this invoice relates to a service within the relevant period. These invoices are therefore accepted.</p> <p>The tribunal finds that the amount payable is:</p> <p style="text-align: center;">£472.80.</p>
Light Investigation	£19.20	No queries.		£19.20 payable
RCA Assessment	£4,680.00	<p>Hugely excessive.</p> <p>Further comments 26July  No invoices have been provided.  Remains in dispute.</p> <p>Even if an invoice was provided, the amount is excessive. We attach fee</p>	<i>As per the attached spreadhseet</i>	<p>The report for the assessment and the invoice for the work is not provided within the bundle. The tribunal therefore finds that there is no evidence of this work being completed. Additionally, the amount of £4 680.00 the Respondent claims is excessive. We therefore disallow this amount.</p>

		<p>schedules from two surveyors which show the cost for an RCA for the premises would be £1200+vat or £850+vat. There is nothing out of the ordinary or special about the premises to warrant such an inflated fee.</p> <p>If the RCA was indeed performed (we note there was a mid term adjustment in April 2020) the report was never handed over to the RTM co, and as such the lessees had to incur further expenditure performing their own RCA in 2021.</p> <p>In view of the lack of invoice and the lack of provision of any report we do not accept this cost at all.</p>		
Internal Decorating	£10,336.80	No queries. Relates to Section 20 works from late 2020/early 2021 and was not included in the Mar 20 final accounts, thus must go into the Jul 20 final accounts.		£10 336.80 payable
Additional Insurance	£1,344.38	No queries.		£1 344.38 payable
Insurance Claim Refund	£- £1,764.80	Relates to internal decorating works as above. No queries.		Refund of £1 764.80

Ins claim excess	£250.00	Relates to internal decorating works as above. No queries.		£250.00 payable
Refund from bins	-£5,473.68	No queries.		Refund of £5 473.68
Remove broken key	£84.00	No queries.		£84.00 payable
Handover fee	£720.00	<p>No handover resembling usual expectations was forthcoming from Eagerstates. No information on existing contracts was provided.</p> <p>The only information provided was the final account that is in dispute, as such we believe that no handover fee is appropriate.</p> <p><i>Further comments 26July</i>  <i>No invoices have been provided.</i>  <i>Remains in dispute. No substantive handover was ever provided for this site save the final account document. It is for the Respondent to evidence this expenditure and if he is unable it should be disallowed.</i></p>	<p><i>A final account was sent to the RTM company, but in any event this would not fall part of S.27A</i></p>	<p>The Respondent has not directed the tribunal to a term of the lease under which a handover fee can be charged as a service charge. In any event, no evidence has been provided by the Respondent to justify the fee. Additionally, the tribunal notes the emails that are contained within the bundle which show that the Applicants had to chase the Respondent for relevant information for the RTM. The tribunal therefore disallows this charge.</p>
Emergency Line	£312.00	No queries.		£312.00 payable



<p>Management Fee</p>	<p>£3,250.00</p>	<p>Extrapolating this to a calendar year would be £10,883.</p> <p>Eagerstates' own management fee for the year 19/20 was £7,394.40 so this would represent an increase of £3,488.60 which is 47%.</p> <p>Prior to the RTM, Eagerstates issued their service charge demand for 2020/21 on 2 March 2020. Included in this was a provision for management fee of £7,394.40, no change on the prior year.</p> <p>We suspect that they have therefore increased this retrospectively due to the RTM. We feel that the fee levied should therefore be a maximum of <math>£7,394.40 \times 109/365 = £2,208.20</math> inclusive of VAT.</p> <p>With regard to whether this is fair and/or reasonable, Prime Property Management's fee for 21/22 was £5,720.00 and this has increased at 3% per annum since.</p> <p><a href="#">Further comments 26July</a></p>	<p><i>This is a fair and reasonable management fee for the period and is not excessive for a building such as this</i></p>	<p>The tribunal accepts that for the relevant period the Respondent has been managing the property and therefore a fee is due. Taking the previous years fee as a baseline and calculating this for the period of 24<sup>th</sup> March 2020 to 10<sup>th</sup> July 2020, the tribunal finds that £2 208.30 is a reasonable charge. The payable amount is therefore:</p> <p>£2 208.30</p>
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		<p>No invoices have been provided. Remains in dispute. In the first instance it is for the Respondent to evidence this expenditure and if he is unable it should be disallowed.</p> <p>Additionally, the fee charged amounts to a yearly rate of £418.58/unit/year (the building has 26 flats). This is a very high management fee and is not justifiable for a non-ARMA member, non-RICS member, inner (ie not central) London managing agent.</p> <p>We have provided an invoice from Prime (inv 8190 - £1516.50) for one quarter – this equates to a yearly cost of £6066 inc vat or £233.31/unit.</p> <p>In the absence of an invoice we do not accept any of these costs.</p>		
Total due	<b>£33,688.44</b>			<p>Amount Accepted by Applicant: £17 422.27 Amount determined by the tribunal: £6 106.83. Total due: £23 529.10.</p>



### **The tribunal's decision**

17. The tribunal determines that the amount payable in respect of service charge is £23 529.10. This amount is made up of £17 422.27, which is the amount that the Applicant accepts and £6 106.83 that the tribunal has determined is payable in relation to the amounts that the Applicant did not accept. For the avoidance of doubt these figures do not include the refunds that the applicant sets out in the schedule namely for insurance (£1 764.80) and bins (£5 473.68).
18. The tribunal has not worked through how this amount will be apportioned to each tenant as this will be a matter for the Applicant and Respondent to determine in accordance with the lease agreements.

### **Application under s.20C, Schedule 11 and and refund of fees**

19. The Applicant made an application for a refund of the fees that he had paid in respect of the application and hearing. Having heard the submissions from the Applicant and taking into account the determinations above, the tribunal orders the Respondent to refund any fees paid by the Applicant within 28 days of the date of this decision.
20. In the application form and at the hearing, the Applicant applied for an order under section 20C of the 1985 Act (an order that all or any costs incurred by the landlord in these proceedings cannot be included within any service charge payable by the tenant). Having heard the submissions of the Applicant and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass any of its

costs incurred in connection with the proceedings before the tribunal through the service charge.

21. At the hearing, the Applicant made an application under paragraph 5A, schedule 11 of the Commonhold and Leasehold Reform act 2002. This is an order which reduces or extinguishes the tenant's liability to pay administration charges in respect of litigation costs. Having heard the submissions of the Applicant and taking into account the determinations above, the tribunal determines that it is just and equitable in the circumstances for an order to be made under schedule 11, so that the Respondent may not pass any administration charges incurred in connection with the proceedings before the tribunal.

**Name:** Tribunal Judge MacQueen      **Date:** 24<sup>th</sup> October 2023

### **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).