



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

Case reference : **LON/00AH/LSC/2024/0035**

Property : **55D and 55C Penge Road, South Norwood,
London, SE25 4EJ**

Applicants : **Mr Donald Gayle (55D Penge Road)
Ms Nordica Thomas (Flat 55C Penge Road)**

Representative : **Mrs Gayle representing Mr Gayle
Ms Lorna Morgan representing Ms Thomas**

Respondent : **Assethold Limited**

Representative : **Mr Horne, 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 Tueje
Mr O. Dowty MRICS**

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

Date of hearing : **27th August 2024**

Date of decision : **28th October 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.
- (3) The Tribunal determines that the Respondent shall pay Mr Gayle £300.00 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by Mr Gayle.

THE APPLICATION

1. By an application dated 15th January 2024, determinations pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) were sought as to the amount of service charges payable in respect of the following periods:
 - 1.1 By Mr Gayle, the service charges due in respect of the period from June 2022 to December 2022;
 - 1.2 By Mr Gayle and Ms Thomas the service charges due in respect of service 2022/2023; and
 - 1.3 The payment on account due in respect of 2023/2024.

THE BACKGROUND

2. There is a history of multiple Tribunal and county court proceedings regarding 55 Penge Road, involving various leaseholders at different times. Except for one of these, the previous proceedings are not directly relevant to the present case. The one that has some relevance is the First-tier Tribunal’s determination dated 22nd December 2022 (LON/00AH/LSC/2021/0390) made following a hearing on 22nd November 2022.
3. The above-mentioned First-tier Tribunal case was an application brought by the leaseholders of Flats 55A, 55B, 55C and 55D; the latter being Kingswood Property Development Limited (“KPDL”), Mr Gayle’s predecessor in title. In that case, the Applicants challenged the payability of service charges from 2016/2017 to 2020/2021, and the budgeted service charges for 2021/2022. The decision of that Tribunal (the “2022 Tribunal”) is dated 22nd December 2022, and made the following determination:

The disputed service charges to which these applications relate, namely the actual service charges for the years 2016/17 to 2020/21 inclusive and the budgeted service charges for the year 2021/22, are all fully payable, or be it that the second six- monthly payment for 2021/22 is not due until 25 December 2022 (as is accepted by the Respondent).

4. The current application was initially brought by Mr Gayle only. The Tribunal issued a directions order dated 8th March 2024, including the following directions:
 - 4.1 By 22nd April 2024 the Respondent must send service charge accounts, estimates, demands for payment and payments made for the years in dispute to the Applicant (who at that time was only Mr Gayle);
 - 4.2 By 27th May 2024 the Applicant must complete the Tribunal's schedule of disputed service charges, and send it, witness statements, statements of case, documents, and any alternative quotations to the Respondent;
 - 4.3 By 24th June 2024 the Respondent must complete the relevant column in the Tribunal's schedule of disputed service charges, provide invoices for the disputed items contained in the schedule, provide documents relied on, witness statements and a statement of case; and
 - 4.4 Listed the application for a final hearing on 27th August 2024.
- 5 Further to these directions, on 23rd May 2024 the Tribunal received by post a covering letter from Mr Gayle enclosing the Tribunal's schedule of disputed service charges, containing a breakdown of the service charges disputed from June to December 2022, including the balance brought forward of £10, 850.17 and the costs, fees and charges associated with recovering that sum.
- 6 In e-mails sent to the Tribunal on 21st June 2024 and 24th June 2024 sent by Mrs Gayle on Mr Gayle's behalf, Mrs Gayle made enquiries about how she could request the Tribunal inspect the Property; it appears Mrs Gayle did not receive a response, and no inspection took place.
- 7 Despite Mrs Gayle's enquiries regarding an inspection, the Tribunal did not consider that one was necessary. The Respondent had provided photographs, and the health and safety and fire risk assessment (see paragraph 16.7 below) also contained numerous photographs.
- 8 In an e-mail sent to the Tribunal on 21st July 2024, Ms Nordica Thomas requested to be added as a party to the proceedings. In a letter to the parties dated 24th July 2024, Judge Martynski granted this request. In the end Ms Thomas did not attend the final hearing, but was represented at the hearing by Ms Lorna Morgan, a non-practising solicitor.
- 9 Ms Thomas did not disclose any documents nor provide a statement of case or witness statement. Her primary position, as argued by Ms Morgan, is set out in Ms Morgan's e-mail to the parties and the Tribunal sent on 19th August 2024. The e-mail is regarding the hearing on 27th August 2024 (mistakenly referring to it being on 29th August) and reads:

If a hearing is taking place on 29 August, the Tribunal will be asked to determine as a preliminary issue whether the Tribunal is precluded from enforcing the Respondent's rights in view of the public policy defence of illegality and the Respondent's fraud.
- 10 In support of that argument, Ms Morgan relied on the Supreme Court's decision in *Patel v Mirza* [2016] UKSC 42 and the Law Commission's recommendation on this issue.

- 11 Also, in an e-mail sent to the Tribunal on 27th July 2024, Ms Fadila Atif requested to be added as a party to the proceedings, but that request was refused.
- 12 Mr Gayle e-mailed the bundle for the final hearing to the Tribunal and the Respondent on 30th July 2024.

THE HEARING

- 13 Mr Gayle was represented by his wife, Mrs Gayle at the hearing, who also gave evidence in support of the application. And as stated, Ms Thomas was represented by Ms Morgan. The Respondent was represented by Mr Horne of counsel. No one from the Respondent or its managing agent attended the hearing, nor had the Respondent provided a statement of case or witness statement, although on 23rd August 2024 it had belatedly submitted invoices relating to the disputed 2022/2023 service charges, and other documents such as photographs and reports.
- 14 The hearing bundle from Mr Gayle was a 158-page electronic hearing bundle (including index).
- 15 Mr Gayle also provided a series of documents described as a skeleton argument, which included a covering letter dated 13th August 2024, enclosing 8 pages of written arguments on the disputed service charges, interspersed with supporting documents. The 8-page written argument was already in the hearing bundle, and appears to be Mr Gayle's statement of case/skeleton argument. We will adopt his description and refer to it as a skeleton argument.
- 16 On 23rd August 2024 the Respondent submitted the following documents in respect of the application:
- 16.1 A job sheet from BNO London dated 1st June 2023 relating to an unmetered supply at 55 Penge Road;
 - 16.2 A job sheet from BNO London dated 1st June 2023 relating to meters at Flats 55D and 55E;
 - 16.3 A job sheet from BNO London dated 1st June 2023 relating to testing at Flats 55A to 55E;
 - 16.4 An annual inspection report from BNO London dated 1st June 2023 in respect of 55 Penge Road;
 - 16.5 An asset log from BNO London dated 1st June 2023 in respect of 55 Penge Road;
 - 16.6 A reinstatement cost assessment dated February 2023 in respect of 55 Penge Road;
 - 16.7 A general health and safety and fire risk assessment dated 5th January 2023 in respect of 55 Penge Road; and
 - 16.8 A 62-page pdf document consisting of various invoices.
- 17 We dealt with the following procedural matters before hearing any evidence.

PRELIMINARY MATTERS

- 18 There were three preliminary points. Firstly Ms Morgan argued the Tribunal was precluded from enforcing recovery of the service charges, secondly Mr

Horne applied for the application to be struck out, and thirdly Mrs Gayle applied for the Respondent to be debarred from defending the application.

Prohibition on Enforcing Recovery of Service Charges by the Respondent

19 The preliminary point raised by Ms Morgan on behalf of Ms Thomas is set out in her e-mail sent on 19th August 2024 (see paragraph 9 above), and argues that the Tribunal is precluded from enforcing the Respondent recovering service charges because of its allegedly illegal including fraud. As stated, Ms Morgan relied on *Patel v Mirza [2016] UKSC 42* and the Law Commission's report. Mr Horne argued this point had previously been argued and rejected by the 2022 Tribunal, and so Ms Morgan could not seek to re-argue the same point.

20 We too found Ms Morgan's argument to be largely indistinguishable from those she had raised at the First-tier Tribunal hearing on 22nd November 2022, where she also relied on the Respondent's alleged illegal conduct and fraud as a bar to it seeking enforcement of payment of the service charges under the lease. In fact the 2022 Tribunal noted (see paragraph 7 of the 22nd December 2022 decision):

“Those allegations of fraud were not confined to the Respondent but seemed to include Tribunal Judges and County Court Judges.

21 The similarity in the arguments raised by Ms Morgan in 2022 and in the present case is demonstrated by an extract from the 2022 Tribunal's decision which summarised Ms Morgan's argument as follows (at paragraph 44):

In relation to the decision of the Supreme Court in Patel v Mirza, Ms Morgan referred the tribunal to paragraph 102, section B, submitting that this section is authority for the proposition that the courts will not enforce rights arising out of an act which is anti-social. She also cited paragraph 99 of that decision as stating that a person should not profit from their wrongdoing and that the law should be coherent and not condone illegality. She added that Patel v Mirza dealt with the common law, not statute, and looked at the principles that should be followed.

22 The 2022 Tribunal, after hearing Ms Morgan's argument on the preliminary point that the service charges were not enforceable as a result of the Respondent's alleged illegality and fraud, stated at paragraph 80 of its decision:

In conclusion, in the absence of any of the Applicants' arguments succeeding the service charges are payable in full.

23 In the circumstances, we will not reconsider the preliminary point Ms Morgan has argued before us. The same point was raised by her before the 2022 Tribunal, which considered it in detail, before rejecting the arguments.

The Respondent's Strike Out Application

- 24 The Respondent's application to strike out the application was brought on the grounds that the Applicants had failed to comply with the Tribunal's directions. Mr Horne argued that his instructions were the Respondent had not received the documents Mr Gayle had been directed to provide by 27th May 2024 (see paragraph 4.2 above), which had therefore prejudiced the Respondent as it did not have a breakdown of the service charges being disputed. Mr Horne continued, the completed schedule was also not included in the bundle, and although Mrs Gayle claims to have posted it, she did not have proof of posting.
- 25 Mrs Gayle informed us that she had posted all the documents required by the Tribunal, and although she had obtained proof of posting, she had not brought it to the hearing.
- 26 We accept Mrs Gayle's direct evidence that she posted the documents. We had no evidence to the contrary, although we note Mr Horne's instructions. We understand from Mrs Gayle that she is not used to electronic communication, and so preferred to post the documents. That evidence is consistent with her posting other documentation to the Tribunal, such as the application to debar the Respondent. Mrs Gayle had proof of posting for the debarring request (which Mr Horne was also instructed, the Respondent had not received). Mrs Gayle's evidence that she prefers to send documents by post and did so, is supported by documentary evidence of her posting other documents.
- 27 Even though we have no evidence stating the Respondent did not receive the documents Mrs Gayle sent in May 2023, we note that Mr Gayle's skeleton argument provides a breakdown of all service charges being disputed. The skeleton argument was contained in the bundle e-mailed to the Respondent on 30th July 2024, which would have provided the Respondent with sufficient notice and detail of all the service charges being disputed.
- 28 In the circumstances, we refuse the request to strike out the application.

The Applicant's debarring Application

- 29 Mrs Gayle argued on Mr Gayle's behalf that the Respondent should be debarred from defending the application. She stated there was a persistent failure to provide documents relating to a breakdown of the service charges being claimed. The Respondent had continuously failed to provide this documentation when requested, and had failed to do so in accordance with the Tribunal's directions (see paragraph 4.3 above).
- 30 Mr Horne argued the Respondent had been unable to comply with the directions because it did not receive the documents Mr Gayle had been directed to send by 27th May 2024. It had nonetheless provided relevant documentation on 23rd August 2024 (see paragraph 16 to 16.8 above).

- 31 We have found Mr Gayle had provided the required documents in May 2024, so we do not accept Mr Horne’s submissions. We also note the Respondent did not comply with the Tribunal’s direction referred to at paragraph 4.1 above. However, we consider it would be disproportionate to debar the Respondent from defending the application, given that it had provided documents. These documents were very late, provided just a few days before the hearing, but they were nonetheless of assistance in dealing with the dispute in respect of the 2022/2023 service charges. Therefore, this had not been a complete failure by the Respondent to provide documentation. Accordingly, the Applicant’s request to debar the Respondent is refused.

THE PROPERTY

- 32 The property which is the subject of this application is a building which has been converted into six flats, known as 55A to 55F Penge Road, London, SE25 4EJ. Ms Fadila Atif is the leaseholder of Flats 55A and 55B, Ms Thomas is the leaseholder of Flat 55C, and Mr Gayle is the leaseholder of Flat 55D. Mr Gayle acquired the leasehold interest in Flat 55D in June 2022 via an auction sale. Regarding the sale, an e-mail written on behalf of Mr Gayle sent to the Respondent on 11th October 2022, states:

I bought the above property at Auction that was sold with a hidden debt for maintenance charges.

Please could you give me a break down of these charges.

- 33 This request for a breakdown of the sums owed was repeated in an e-mail sent to the Respondent on 22nd November 2022, and according to Mrs Gayle, on many other occasions.
- 34 The Tribunal were provided with a copy of the lease to Flat 55D, clause 4 of which makes provision for paying service charges, with the costs the leaseholders are liable for being set out in the fourth schedule. The parties accept the material terms of Flat 55C’s lease are substantially the same.
- 35 By the terms of the lease, the Respondent is required to deal with various repairs, maintenance and services, and the tenant to contribute towards their costs by way of a variable service charge.
- 36 The service charge year runs from the 25th December to 24th December the following year.

THE RELEVANT LAW

- 37 The definition of service charges is found at section 18 of the Landlord and Tenant Act 1985, which reads:

18.— Meaning of “service charge” and “relevant costs”

(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.

38 Section 19 of that Act deals with the reasonableness of service charges, it states:

19.- Limitation of service charges: reasonableness

- (1) Relevant costs shall be taken into account in determining the amount of service charge payable for a period-
- (a) only to the extent that they are reasonably incurred, and
 - (b) where they are incurred on the provision 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.

39. Section 27A deals with the Tribunal's jurisdiction to determine the reasonableness of service charges. It reads:

27A Liability to pay service charges: jurisdiction

- (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.

40. As to how case law has defined reasonableness, the Court of Appeal provided the following analysis in *Waalerv Hounslow London Borough Council* [2017] 1 W.L.R. 2817 (see paragraph 37).

"In my judgment, therefore, whether costs have been reasonably incurred is not simply a question of process: it is also a question of outcome. That said it must always be borne in mind that where the landlord is faced with a choice between different methods of dealing with a problem in the physical fabric of a building (whether the problem arises out of a design defect or not) there may

be many outcomes each of which is reasonable. ... the tribunal should not simply impose its own decision. If the landlord has chosen a course of action which leads to a reasonable outcome the costs of pursuing that course of action will have been reasonably incurred, even if there was another cheaper outcome which was also reasonable.

THE ISSUES

41. At the start of the hearing the relevant issues for determination were identified as the reasonableness of service charges in respect of the following:
 - 41.1 For the period June to December 2022 payable by Mr Gayle;
 - 41.2 The service charge year 2022/2023 payable by Mr Gayle and Ms Thomas; and
 - 41.3 Estimated service charges for 2023/2024 payable by Mr Gayle and Ms Thomas.
42. The Tribunal reached its decision after considering the oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.
43. We have applied the relevant law to the issues that require determination, and our decisions are at paragraphs 49 to 157 below, with a summary of our decisions in the tables below paragraphs 60, 128, and 157.
44. The Tribunal takes into account that when considering the reasonableness of the estimated costs used to calculate the interim charges, the starting point is the lease, which affords the Respondent a degree of discretion as to what amount is reasonably required.
45. In principle, we find it is reasonable to calculate estimated costs based on the costs incurred in previous years. We also consider the Respondent is entitled to rely on what it knew or ought to have known at the time these estimates were calculated.
46. Unless otherwise stated, service charges for June to December 2022 relate only to Mr Gayle, whereas all other service charge costs in this determination represent the global cost of the works and services in respect of 55 Penge Road. We have not been asked to consider the apportionment of those costs, and therefore we have not done so.
47. Most of the evidence, oral and written arguments below in respect of the service charge costs were made by Mrs Gayle on behalf of Mr Gayle, which Ms Morgan supported and adopted.
48. The descriptions used to describe the service charge costs are taken from the service charge account prepared and sent by Eagerstates, the Respondent's managing agent, to Mr Gayle.

The Determination on the 2022 Service Charges

The Tribunal's Decision

49. The amount claimed in respect of 2022 amounts to £18,385.23, which falls into four broad categories:

49.1	Arrears up to 24 th December 2021	-	£10,850.17
49.2	Costs, fees & charges relating to arrears	-	£5,037.00
49.3	Service charges for 2022	-	£1,373.06
49.4	Ground rent: June 2018 to Dec 2022	-	£1,125.00

50. Our findings in respect of each of these categories is as follows:

50.1	Arrears	-	We make no determination
50.2	Costs, fees & charges	-	£0
50.3	Service charges for 2022	-	£0
50.4	Ground rent	-	We make no determination

Reasons for the Tribunal's Decision on the 2022 Service Charges

Arrears to 24th December 2021

51. There is limited documentary evidence regarding the 2022 service charges, although Mr Gayle has provided a statement of account dated 2nd November 2022 prepared by Eagerstates in respect of Flat 55D. It shows an opening debit balance of £10,850.17 as at 6th December 2021, with further debits for costs, fees and charges associated with recovering the arrears, plus debits for ground rent.
52. We note the final hearing on 22nd November 2022 was in respect of actual service charges for the period 2016/2017 to 2020/2021, and so would cover the period up to 24th December 2021, including the period for which the balance of £10,850.17 was carried forward.
53. As stated, there are limited documents regarding these service charges, but it is more likely than not that the £10,850.17 represents the totality of the amount payable for 2016/2017 to 2020/2021, which was the subject of the 2022 Tribunal's determination. That conclusion is consistent with the period of the arrears of ground rent shown on this statement, relating to June 2018 to December 2022. We find it's more likely than not that the arrears of service charges and arrears of ground rent accumulated over the same period. Therefore, as the 2022 Tribunal has already determined the payability of service charges for 2016/2017 to 2020/2021, we decline to make any determination regarding the payability of service charges in respect of the same period. It follows we make no determination in respect of section 27A(1)(a) to 27(1)(e) of the Landlord and Tenant Act 1985.

54. We would like to add that Mr Gayle says he is not in a position to provide any further information in respect of the service charges claimed because it covers the period before he acquired his leasehold interest. We have seen written communications sent on his behalf to the Respondent requesting further information about these charges, and we accept Mrs Gayle's evidence that the Respondent has failed to provide these. We note the Respondent has also not provided that information to the Tribunal. Therefore, the Tribunal makes no criticism of Mr Gayle for the limited documents provided in respect of the period from June to December 2022.

Costs, Fees & Charges relating to the Arrears

55. Flat 55D's statement of account dated 2nd November 2022 provides a breakdown of the various costs, charges and fees incurred in relation to the arrears which the Respondent says were owed as at 6th December 2021. However, the Respondent has not provided any documentary relating to these subsequent charges, for instance, no invoices have been provided.
56. We have taken into account Mr Horne's instructions are that the Respondent did not receive the schedule of disputed service charges. However, we have concluded the schedule was posted to the Respondent in May 2023, and in any event, Mr Gayle's skeleton argument provides a breakdown of the charges which he disputes. Accordingly, in our judgment, the Respondent had sufficient notice that these charges would be disputed.
57. As Mr Gayle disputes this amount is payable, and the Respondent has failed to provide any documentary evidence, nor witness evidence, to substantiate the amounts being claimed we find nil is payable in respect of the costs, fees and charges associated with the arrears.

Service charges for 2022

58. The statement of account dated 2nd December 2022 included payment of service charges described as "SVC Dec-June 2022" and "SVC June-Dec 2022" both being payments of £686.53. However, no breakdown has been provided, nor has any information or evidence as to how these sums were calculated.
59. As stated, no one from Assethold or Eagerstates attended the hearing, nor have either provided a statement of case or witness statement, and we have no explanation for this. The invoices that were provided by the Respondent related to the service charge period from 25th December 2022 to 24th December 2023, so none have been provided for any other period, including the period up to 24th December 2022. Without any documents or evidence to substantiate the amount claimed, which amount Mr Gayle disputes, we determine the amount due is nil.

Ground Rent from June 2018 to December 2022

60. The current application is brought under section 27A of the Landlord and Tenant Act 1985, accordingly, the Tribunal has no jurisdiction to determine disputes regarding the payment or non-payment of ground rent.

Summary of the Tribunal’s Decision on the 2022 Service Charges

Item	Cost claimed by the Respondent	Tribunal’s decision	Paragraph reference for Tribunal’s decision
6/12/2021 debit balance b/fwd	£10,850.17	Not applicable	Paras 51-54
Ground rent June-Dec 2018	£125.00	Not applicable	Para 60
Ground rent Dec-June 2019	£125.00	Not applicable	Para 60
Ground rent June-Dec 2019	£125.00	Not applicable	Para 60
Ground rent Dec-June 2020	£125.00	Not applicable	Para 60
Ground rent June-Dec 2020	£125.00	Not applicable	Para 60
Ground rent Dec-June 2021	£125.00	Not applicable	Para 60
Ground rent June-Dec 2021	£125.00	Not applicable	Para 60
Ground rent Dec-June 2022	£125.00	Not applicable	Para 60
Service charges Dec-June 2022	£686.53	£0.00	Paras 58 - 59
Solicitor’s costs	£1,200.00	£0.00	Paras 55 - 57
Admin costs	£600.00	£0.00	Paras 55 - 57
Ground rent June-Dec 2022	£125.00	Not applicable	Para 60
Service charges June-Dec 2022	£686.53	£0.00	Paras 58 - 59
Solicitor’s costs	£1,200.00	£0.00	Paras 55 - 57
Admin costs	£600.00	£0.00	Paras 55 - 57
Notice of transfer fee	£300.00	£0.00	Paras 55 - 57
Non service of notice fee	£420.00	£0.00	Paras 55 - 57
2/11/2022 DRA referral fee	£243.00	£0.00	Paras 55 - 57
DRA correspondence fee	£474.00	£0.00	Paras 55 - 57

The Determination on 2023 Service Charges

The Tribunal’s Decision on Insurance October 2022/2023 + Brokers Fee

61. We find that the £2,764.28 Allianz building insurance premium is reasonable.

Reasons for the Tribunal’s Decision

62. The Applicants sought to rely on alternative insurance quotations, which comprised a quotation from Abacus insurance brokers dated 5th April 2024 for £1,567.23. The Applicants also relied on a quotation from Gauntlet insurance brokers quoting an annual premium of £1,957.71. Mrs Gayle accepted there may be some differences between these quotations and the insurance obtained by the Respondent, but she explained the quotations were based on the limited information she had. Ms Morgan pointed out the Respondent had not provided any information regarding any commission that may be payable in respect of the insurance.

63. Mr Horne argued the Respondent obtained appropriate insurance cover at a reasonable cost, and that the alternative quotations were not comparable. He claimed the terms of the Abacus insurance quotation were not comparable because it describes the insured premises as 55B Penge Road, and states it will be occupied by 2 people. As to the Gauntlet quotation, there is a £5,000 limit

on the cover for contents, a £2,500 excess for subsidence, and a 50% day 1 uplift. Whereas the policy obtained by the Respondent covered contents up to £20,000, with a £1,000 subsidence excess. But we note the Allianz policy obtained by the Respondent only had a 30% day 1 uplift.

64. We do not consider the Abacus quotation is an appropriate comparable premium because it is based on a single dwelling occupied by 2 people. We have taken into account that the Gauntlet quotation has a higher day 1 uplift, but a substantially lower contents cover and a higher subsidence excess. Broadly speaking, the benefits of the Allianz insurance outweigh the benefits of the Gauntlet quotation. As a landlord is not obliged to select the cheapest option available, and the more expensive Allianz insurance has greater benefits overall, we consider that premium is reasonable.

The Tribunal's Decision on Common Parts Cleaning

65. This challenge was withdrawn by the Applicants.

The Tribunal's Decision on Window Cleaning

66. We find the cost of £371.40 claimed by the Respondent for window cleaning is reasonable.

Reasons for the Tribunal's Decision

67. The relevant section of Mr Gayle's skeleton argument reads:

"Non existent. No one has let a window cleaner into the block and only windows they can access our front ground floor flat who has 1 double glazed window at the front of property. Flats above all way too high even for ladders. No one in the block has ever seen a window cleaner at the property. Cannot access the back of the property whatsoever as property is detached on both sides."

68. Mrs Gayle reinforced this position during the hearing, explaining it wasn't possible for the window cleaners to clean windows at the back of the building because they couldn't gain access. Mr Horne argues the cost of the window cleaning is reasonable, the invoices make clear that leaseholders are invoiced only for windows at the front, plus the invoices and some photographic evidence of the windows being cleaned are amongst the documents provided by the Respondent. He pointed out the Applicants provided no comparable quotations.
69. We find that the invoices provided relate to the windows at the front of the property only, which were cleaned every quarter. This is consistent with the Applicants' position that only windows at the front were accessible. As to the windows above ground floor being too high to reach even with a ladder, we do not accept they were too high to be cleaned. The photographic evidence of the window cleaning show telescopic equipment is used, which in our experience, can reach second floor windows, and higher. While we note the Applicants maintain no one has seen the windows being cleaned, the photographs indicate

they are being cleaned, so it seems more likely that residents are simply not at home to see when this is being done. Accordingly, we are satisfied that all the front windows have been cleaned as the Respondent contends. Furthermore, we consider it is only cleaning the front windows that leaseholders have been invoiced for, and that it has been done at a reasonable cost.

The Tribunal's Decision on Fire Health and Safety Testing

70. We find the cost of £528.00 claimed by the Respondent for this testing is reasonable.

Reasons for the Tribunal's Decision

71. In his skeleton argument, Mr Gayle complains about this cost as follows:

This Fire company will not inform us of anything as we have No contract with them They say and told us to go to Eagerstates not giving any information and cannot get alternative quotes. I have tried see copies in bundle pages 32-33 and pages 134-147

Feel this price is very expensive to test only.

72. Mrs Gayle elaborated on this at the hearing to explain the difficulty in obtaining comparable quotations because it was unclear what services were being provided, and the company were not forthcoming about this. She also questioned whether the frequency of the testing was reasonable. Mr Horne pointed out that the Applicants had provided no comparable quotations, the only quotation the Applicants have provided in relation to fire safety relates to a risk assessment. He argued that the costs were reasonably incurred to ensure the health and safety of occupants. He said the costs were reasonable and reflected that individuals need to be suitably qualified and have adequate insurance.

73. In our judgment it is reasonable for the Respondents to have a system in place for ensuring fire safety, which includes regular testing of fire safety equipment. We note the Respondent has arranged for this to be done monthly, and has invoiced leaseholders accordingly. We also note that there is no prescribed frequency for testing, and having regard to the fire risk assessment dated 5th January 2023 recommending monthly testing, we consider it is reasonable to follow that recommendation. The visits are charged at £40 per visit plus VAT, which again we consider to be a reasonable cost allowing for this to be done by a suitably qualified individual.

The Tribunal's Decision on Inspection & Cleaning Gutters and Downpipes

74. We find the cost of £300.00 claimed by the Respondent for this is unreasonable, and we substitute this with £150.00 which we consider is reasonable.

Reasons for the Tribunal's Decision

75. Mrs Gayle argued no inspections nor work was carried out, and that the contractors needed access to the back of the building to do this, which access has never been requested since Mr Gayle acquired his leasehold interest in June 2022. Alternatively she argued if the gutters and downpipes were inspected and cleaned, this could have been done at the same time and by the same contractors who cleaned the windows.
76. Mr Horne argued the amount charged was reasonable for each of the two occasions this was done, and it was reasonable to carry this out as part of cyclical maintenance. He said it could not be done by the window cleaners because different equipment was used. He referred us to the date stamped photographs provided by the contractors evidencing their visits.
77. We consider it is an appropriate maintenance and preventative measure to periodically check the gutters and downpipes, and to clear them as required. However, we consider it is not reasonable to do this twice annually, once per year is reasonable and sufficient. Therefore, in our judgment £150 for one visit is reasonable.

The Tribunal's Decision on Six Months Fire Health & Safety Services

78. We find the cost of £672.00 claimed by the Respondent for this servicing is reasonable.

Reasons for the Tribunal's Decision

79. The Applicants challenge whether the checks are done because no one has seen the inspections being carried out, nor has any documentation relating to the checks been provided. In any event they argue, the cost is excessive for carrying out tests.
80. Mr Horne argues the Respondent has acted responsibly in arranging this, has provided invoices confirming the cost of these checks. He also points out a certificate confirming the equipment that has been inspected and/or serviced during each visit is contained in the 62-page bundle of documents provided by the Respondent (see paragraph 16.8 above). Finally, he states, the Applicants have not provided an alternative quote.
81. As with testing fire safety equipment, we consider it is appropriate for the safety of residents that this equipment is periodically inspected and serviced. We note that contrary to the Applicants' assertion, there is documentation relating to these visits, although the Respondent did provide this very late. Nonetheless, this documentation indicates six monthly inspections took place. We also note that there is no prescribed frequency, and having regard to the fire risk assessment dated 5th January 2023 recommending servicing every six months, we consider it is reasonable to follow that recommendation. We do not consider the amount charged for each visit is unreasonable, and the Applicants have not provided any alternative quotations to demonstrate otherwise.

The Tribunal's Decision on Fire Health & Safety Risk Assessment

82. We find the cost of £408.00 claimed by the Respondent for this risk assessment is reasonable.

Reasons for the Tribunal's Decision

83. The Applicants challenge whether the risk assessment was done because no report has been provided. In any event they argue the assessment is overpriced.
84. Mr Horne argues in accordance with fire safety requirements, it is reasonable that a fire risk assessment is carried out, and a copy of the assessment has been provided. The Respondent has acted responsibly in arranging this, and has provided invoices confirming the cost of this service. He points out that the Applicants' alternative quotation, at £550 plus VAT, is higher than the £408 inclusive of VAT actually incurred for this.
85. We agree it is appropriate to carry out periodic fire risk assessments, so the cost is reasonably incurred, and the amount is reasonable too. Particularly as the cost is less than the Applicants' alternative quote. However, in our judgment, we do not consider it is reasonable to carry out a fire risk assessment annually, having regard to the building, the number of dwellings and the other fire safety measures in place. So although we consider this cost for the 2023 service charge year is reasonable, our observation about the frequency of such risk assessments is relevant to our conclusion regarding the estimated expenditure for 2024 (see paragraphs 149 to 150 below).

The Tribunal's Decision on Electrical Installation Condition Report

86. We find the cost of £144.00 claimed by the Respondent for EICR inspection is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

87. The Applicants challenge this on the grounds that the condition of the electrical installation appears unsatisfactory, they have not been provided with a EICR report, and dispute whether the inspection was carried out.
88. Mr Horne confirmed the inspection did not go ahead. The invoice dated 18th January 2023 states: "*Unable to carry out works as power fed from Private flat*". The Respondent has not provided any evidence about why an EICR inspection was arranged when it was not possible for the inspection to be done. It may be that the Respondent has a sound reason, but as stated, we do not know what that reason is. Accordingly, we do not consider it is reasonable that leaseholders should be charged for this when no inspection was carried out.

The Tribunal's Decision on Smoothing of Banister and Coating

89. We find the cost of £900.00 claimed by the Respondent for this work is unreasonable, and we substitute this with £100.00 which we consider is reasonable.

Reasons for the Tribunal's Decision

90. Mrs Gayle argues there isn't a banister in the communal area, though she seems to accept there is a wooden handrail, but adds it is poorly maintained, has not been decorated or smoothed, and it has splinters.
91. Mr Horne maintained it was reasonable to carry out this work, which was done to a reasonable standard. He points out no comparable quotation has been obtained, and the Respondent has provided an invoice and photographic evidence to support this cost. We have considered the documentary evidence the Respondent relies on, which show the wooden handrail before and after it was coated. However, we consider £690 is unreasonable, particularly as the photographs suggest only one coat seems to have been applied to the handrail.

The Tribunal's Decision on Remedials to Stairway Window

92. We find the cost of £216.00 claimed by the Respondent to replace the window lock is reasonable.

Reasons for the Tribunal's Decision

93. Mrs Gayle argued the window lock is broken, and despite this charge, the lock hasn't been fixed. Mr Horne claimed it was reasonable to replace the window lock in accordance with the recommendation in the Health & Safety and Risk Assessment dated 5th January 2023.
94. A copy of the risk assessment has been provided, and it includes a copy of the window lock. The invoice for replacing the lock has also been provided, and is accompanied by a photograph showing a window lock, which it says is the same window identified in the risk assessment. We see there is a different lock on the Respondent's photograph when compared to the photograph in the risk assessment, which together with the invoice, indicates this work has been carried out. Therefore we consider it was reasonable to carry out this work in accordance with the recommendations in the risk assessment, we find the work has been done, and we consider the cost of that work is reasonable.

The Tribunal's Decision on Drone Survey of Roof

95. We find the cost of £300.00 claimed by the Respondent for this drone survey is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

96. The invoice for the drone survey is dated 29th January 2023, and states that the price includes a detailed report of any works required and a price for those works, and yet no report or pricing has been provided by this company. Furthermore, we note that in March and April 2024 the Respondent has subsequently obtained quotations for roof repairs, which was seemingly done without the cost of a drone survey or updated survey. We therefore do not consider a drone survey was reasonable, particularly in the absence of any report or pricing being provided.

The Tribunal's Decision on Surveyor to prepare Insurance Reinstatement Cost Assessment

97. We find the cost of £477.00 claimed by the Respondent for this assessment is reasonable.

Reasons for the Tribunal's Decision

98. Mrs Gayle states a copy of the survey has not been provided, and so disputes whether the survey was carried out, and if so, whether it was reasonable to do so. Mr Horne points out that a copy of the reinstatement assessment has been included amongst the documents provided to the parties and the Tribunal. He continues, it is appropriate to conduct periodic assessments to ensure there is adequate insurance cover.
99. We agree with Mr Horne that it is appropriate and reasonable to periodically assess the reinstatement value of a property for insurance purposes. We also note a copy of the assessment has now been provided, albeit belatedly. Therefore we consider the cost of this assessment is reasonable.

The Tribunal's Decision on Redecorating Communal Area

100. We find the cost of £900.00 claimed by the Respondent for redecoration is unreasonable, and we substitute this with £100.00 which we consider is reasonable.

Reasons for the Tribunal's Decision

101. Mrs Gayle states prior to Mr Gayle acquiring his leasehold interest only part of the hallway was decorated. She argues there has been no further redecoration carried out, and such work that has been done should not cost more than £100 including the paint. Mr Horne argues the Respondent is contractually obliged to redecorate internal communal areas in accordance with the terms of the lease, and points out the Respondent has provided a copy of the invoice.
102. We see the Respondent has also provided photographs of the hallway, which show the unpainted plaster to the walls, and there are no photographs of the hallway after it has been decorated. In the absence of any documentary or direct evidence from the Respondent, we accept Mrs Gayle's direct evidence that the

decorations in the hallway are unsatisfactory and incomplete. We also accept her estimate that £100 is a reasonable cost to pay for what has been done.

The Tribunal's Decision on Annual BNO Inspection

103. We find the cost of £690.00 claimed by the Respondent for this inspection is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

104. Mrs Gayle claims that despite requesting a report of the inspection, none has been provided. She points out that there is no meter for the supply of electricity to the communal hallway for lighting and the electrical socket used by the cleaner, asking who pays for that usage. She also relied on a letter dated 4th June 2024 from UK Power Networks (at page 148 of the bundle) which states:

The premise was found connected via an unregistered meter which lacked a registered Meter Point Administration Number (MPAN) and an Electricity Supplier. The electricity consumed is not associated with any recognised, legitimate supply arrangements.

105. Mr Horne relied on the invoice to confirm this cost was incurred for works that were carried out, and the Respondent's supporting photographic evidence of the visit. He continued there are no alternative quotations to suggest the amount is unreasonable, and accordingly, it was a reasonable cost for leaseholders to meet.
106. The invoice refers to this as an annual inspection, and recommends continuing on going inspections. In our judgment, an annual inspection of the electrical installation is unreasonable, and we were not pointed to any regulatory requirement or recommendation for such frequent inspections. We also note the letter from the UK Power Network dated 4th June 2024, which is consistent with the failed EICR inspection (see paragraph 88 above) indicating problems with the electrical supply for at least 18 months. Despite this, the BNO annual inspection failed to report any problems. Therefore, not only do we consider the frequency of the annual inspection to be unnecessary and unreasonable, we also consider the failure to identify the problem with the communal electrical supply, and the failure to recommend any work or action to deal with this, further indicates the standard of any inspection was unreasonable.

The Tribunal's Decision on Supply and Fitting of Fire Safety Signage

107. We find the cost of £144.00 claimed by the Respondent for this is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

108. Mrs Gayle disputes that any new sign has been put in the hallway. Mr Horne states that this cost has been invoiced, it's appropriate to have such signage, so it's a reasonable service charge that leaseholders should pay. In the absence of

any evidence at all from the Respondent to challenge Mrs Gayle's direct evidence, we find there is no new sign, therefore this cost is unreasonable.

The Tribunal's Decision on Emergency Light Replacement

109. We find the cost of £162.00 claimed by the Respondent for the light replacement is reasonable.

Reasons for the Tribunal's Decision

110. Mrs Gayle argues this cost is excessive as all that was done was replacing a lightbulb, and claims £25 is a reasonable amount. Mr Horne states £162 is a reasonable sum to pay a reputable firm to visit to deal with the emergency lighting, and relies on the invoice provided which evidences the cost.

111. In our judgment this cost is reasonable. The invoice is for the part (the lighting unit/bulb) and labour. While we consider this is likely to have been a quick job, in our experience contractors may have a minimum charge, meaning the £135.00 charged exclusive of VAT, in our judgment is reasonable. It should be uncontroversial that it's important to replace the emergency light bulb for health and safety reasons.

The Tribunal's Decision on Fire Remedial Works to Double Wooden Doors

112. We find the cost of £300.00 claimed by the Respondent for these remedial works is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

113. Mrs Gayle's oral evidence is consistent with the skeleton argument which states no works have been carried out. Mr Horne again relies on the invoice, according to which, the following was carried out:

"Gaps exceed 4mm, frame to be packed over, electrical sign needed, pink foam to be cut away and replaced with fire mastic"

114. We accept Mrs Gayle's direct evidence to the Tribunal that no works were carried out. Her oral evidence is consistent with the skeleton argument, and the latter put the respondent on notice that work was being challenged. Despite which, the respondent has not adduced any witness evidence or photograph evidence to support its position. In the circumstances, we find this work was not carried out, accordingly the cost is not reasonable.

The Tribunal's Decision on Call Out to Investigate Roof

115. We find the cost of £234.00 claimed by the Respondent for this call out is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

116. Mr Horne relied on the invoice dated 31st October 2023 showing the cost relates to a call out to investigate a flat roof, plus undated photographs of the flat roof. Mrs Gayle objected to this cost on the grounds that when the flat roof above Flat 55D was leaking, Eagerstates failed to arrange repairs. She gave evidence that she repeatedly complained to the Respondent about problems with the flat roof above Flat 55D but nothing was done. There is also a letter dated 27th January 2023 from her to the Respondent in the bundle regarding the leak. In the end, to limit internal damage to Flat 55D, Mr Gayle arranged for these works to be carried out himself at his own expense.
117. We have been provided with invoices dated 6th September 2023, 17th October 2023 and 13th November 2023 for the roofing works Mr Gayle arranged. We heard no evidence to challenge Mrs Gayle's account. We consider it was unreasonable for the Respondent to fail to take any adequate steps to address the reported defects until at least 9 months after Mrs Gayle's complaints. Furthermore, by the time it arranged for a call out, Mr Gayle had taken steps himself to prevent further damage being caused during the approaching winter months. It is also not entirely clear whether the call out charge relates to Mr Gayle's complaints given the time that had elapsed. Accordingly, in all the circumstances, we do not consider this call out cost is reasonable.

The Tribunal's Decision on Carpet Cleaning

118. We find the cost of £156.00 claimed by the Respondent for carpet cleaning is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

119. Mrs Gayle argued the hallway carpet has never been cleaned. Mr Horne relied on the invoice to support the Respondent seeking this cost. In the absence of any direct evidence to the contrary, we accept Mrs Gayle's account that the communal carpet has not been cleaned, accordingly we consider it is not reasonable to charge the Applicants for this.

The Tribunal's Decision on Fire Door Inspection

120. We find the cost of £180.00 claimed by the Respondent for the fire door inspection is reasonable.

Reasons for the Tribunal's Decision

121. Mrs Gayle questions why this inspection took place, who carried it out, and why no report has been provided.
122. We consider it is appropriate to periodically inspect fire doors to ensure the safety of residents. We also note periodic inspection of fire doors is recommended in the Fire Risk Assessment report the Respondent obtained. While noting no report has been provided, in our experience a report may not

necessarily be prepared following a fire door inspection, and we have been provided with an invoice indicating the inspection was done. Accordingly, we consider this cost is reasonable.

The Tribunal's Decision on Accountant

123. We find the cost of £510.00 claimed by the Respondent for the accountant's fee is reasonable.

Reasons for the Tribunal's Decision

124. Mrs Gayle argued that they wrote to the accountant asking for copy receipts, but received no response, and so they doubt the accountant saw any receipts. She also questions why leaseholders are paying an accountant. Mr Horne argues the costs is reasonable and an invoice has been provided.
125. The express terms of the lease envisage the freeholder or agent may use an accountant and the costs would be recoverable as part of the service charges (see clause 5 of the fourth schedule). We consider it is a standard practice and reasonable to engage an accountant to prepare the accounts, and in our judgment, the amount charged here is reasonable.

The Tribunal's Decision on Management Fee for December 2022/2023

126. We find the cost of £1,836.00 claimed by the Respondent for the management fee is unreasonable, and we substitute this with £1,377.00 which we consider is reasonable.

Reasons for the Tribunal's Decision

127. The Applicants object to this fee on the ground that they receive no services, and claim Mr Gurvits of Eagerstates is abusive towards them. Mrs Gayle was very critical of the poor level of service provided by Eagerstates, she considers it is inappropriate to pay any management fee at all. Mrs Gayle continues, the management service is poor, repairs, such as to the roof above Flat 55D were not carried out by Eagerstates, the property is unkempt and cannot be sold on the open market. Mr Horne argues services are evidently provided, as demonstrated by the invoices and photographs. In his submission, the management fee reflects a reasonable cost for the service provided.
128. We have taken into account the above evidence and argument, but we also consider that even on Mrs Gayle's evidence, some service is provided. It is common ground that communal cleaning and building insurance has been arranged, notwithstanding the Applicants' challenging the cost of the latter. We have found some fire safety services have been carried out, which we consider is important. We have also found that some routine maintenance and repairs have been carried out. However, we have accepted Mrs Gayle's evidence that the Respondent failed to take appropriate timely action to address the leaking roof, and that Mr Gayle had to arrange these repairs himself. We therefore consider the level of service provided is not entirely satisfactory, and we have also found that some works and/or services have been unreasonably charged to

the Applicants. Therefore, taking a broad brush approach, we consider a 25% reduction on the management fee is appropriate.

Summary of the Tribunal’s Decision on the 2023 Service Charges

Item	Cost claimed by the Respondent	Tribunal’s decision	Paragraph reference for Tribunal’s decision
Insurance	£2,764.28	£2,764.28	Paras 61 – 64
Communal Cleaning	Abandoned	Not applicable	Para 65
Window cleaning	£371.40	£371.40	Paras 66 – 69
Fire Health & Safety Testing	£528.00	£528.00	Paras 70 – 73
Inspection & cleaning of gutters and downpipes	£300.00	£150.00	Paras 74 - 77
Fire Health & Safety Services	£672.00	£672.00	Paras 78 – 81
Fire and safety risk assessment	£408.00	£408.00	Paras 82 – 85
EICR	£144.00	£0	Paras 86 – 88
Smoothing & Coating Banister	£690.00	£100.00	Paras 89 – 91
Remedial works to window	£216.00	£216.00	Paras 92 – 94
Drone Survey on Roof	£300.00	£0	Paras 95 – 96
Insurance Reinstatement Assessment	£477.00	£477.00	Paras 97 – 99
Redecoration in Communal Area	£900.00	£100.00	Paras 100 - 102
Annual BNO Inspection	£696.00	£0	Paras 103 – 106
Supply & Fit Fire Safety Signage	£144.00	£0	Paras 107 – 108
Emergency light replacement	£162.00	£162.00	Paras 109 – 111
Fire remedial works to door	£360.00	£0	Paras 112 – 114
Call out to investigate roof	£234.00	£0	Paras 115 – 117
Carpet cleaning	£156.00	£0	Paras 118 – 119
Fire door inspection	£180.00	£180.00	Paras 120 – 122
Accountant	£510.00	£510.00	Paras 123 – 125
Management fee	£1,836.00	£1,377.00	Paras 126 - 128

The Determination on 2024 Service Charges

129. Many of the service charge costs challenged in 2024 are amongst the disputed 2023 service charges, with the Applicants raising broadly similar objections as set out in Mr Gayle’s skeleton argument. The Respondent’s position was that where there was a corresponding 2023 charge, the cost was for works and services that were reasonable, the cost was reasonable, and the estimated cost were reasonably based on the 2023 charges. Or where the service was not carried out in 2023, Mr Horne argues the 2024 estimate was a reasonable estimate of the likely costs.

The Tribunal's Decision on Insurance

130. We find that the estimated £2,902.49 for building insurance is no greater an amount than is reasonably payable.

Reasons for the Tribunal's Decision

131. The Applicants relied on the same arguments advanced in relation to the 2023 insurance premium, and argue the alternative insurance quotations of £1,567.23 to £1,957.71 provide a reasonable estimate. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023.
132. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 62 to 64 above, we consider £2,902.49 is no greater an amount than is reasonably payable.

The Tribunal's Decision on Window Cleaning

133. We find the cost of £450 estimated for window cleaning is no greater an amount than is reasonably payable.

Reasons for the Tribunal's Decision

134. The Applicants relied on the same arguments advanced in relation to window cleaning in 2023, and stated £320.00 would be appropriate if the windows were cleaned. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023.
135. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 67 to 69 above, we consider £450.00 is no greater an amount than is reasonably payable.

The Tribunal's Decision on Fire Health and Safety Testing

136. We find the cost of £600.00 estimated for fire, health and safety testing is no greater an amount than is reasonably payable.

Reasons for the Tribunal's Decision

137. The Applicants relied on the same arguments advanced in relation to the 2023 fire and safety testing. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023.
138. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 71 to 73 above, we consider £600.00 is no greater an amount than is reasonably payable.

The Tribunal's Decision on Gutter Cleaning

139. We find the cost of £450.00 claimed by the Respondent for gutter cleaning is unreasonable, and we substitute this with £200.00 which we consider is reasonable.

Reasons for the Tribunal's Decision

140. The Applicants relied on the same arguments advanced in relation to this item in 2023. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023.
141. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 75 to 77 above, we consider £450 is a greater amount than is reasonably payable. In our judgment, based on one visit each year, we consider £200 is no greater an amount than is reasonably payable. This allows for a potential 25% cost increase which in our judgment is sufficient, bearing in mind this is the estimated cost for cleaning the gutters only, and does not include inspecting and/or cleaning downpipes that was included in the 2022/2023 cost. Our decision is also based on there being one visit per year, which for the reasons stated in relation to the previous year's charges, we consider to be reasonable.

The Tribunal's Decision on Six Monthly Fire Health & Safety Services

142. We find the cost of £750 estimated for fire, health and safety services is no greater an amount than is reasonably payable.

Reasons for the Tribunal's Decision

143. The Applicants relied on the same arguments advanced in relation to fire safety checks in 2023. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023.
144. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 79 to 81 above, we consider £750 is no greater an amount than is reasonably payable.

The Tribunal's Decision on Drains Service

145. We find the cost of £350.00 claimed by the Respondent for drains service is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

146. Mrs Gayle said it's unclear what this cost relates to, and so no alternative quotations have been obtained. Mr Horne maintained this was a reasonable estimate.

147. We have not been provided with any evidence as to why the Respondent considers this service is reasonable, nor have we been provided with any evidence that the drains are accessible, nor is it clear to us what exactly will be done as part of these works. In the absence of this information, we are not satisfied that this service would be reasonable, and we therefore consider the entirety of this cost is greater than is reasonably payable.

The Tribunal's Decision on Fire, Health & Safety Risk Assessment

148. We find the cost of £450.00 claimed by the Respondent for a risk assessment is unreasonable, and we substitute this with £0 which we consider is reasonable.

Reasons for the Tribunal's Decision

149. In addition to the arguments raised in relation to these 2023 costs, the Applicants query how this assessment is done without access to the flats. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023. In our judgment and experience, ordinarily access to the individual flats is not essential to carry out this type of risk assessment. Nonetheless, we do not consider it is reasonable to carry out a risk assessment when one was carried out in 2023. We have dealt with this at paragraph 85 above.

The Tribunal's Decision on Accountant

150. We find the cost of £540 estimated for accountant's fees is no greater an amount than is reasonably payable.

Reasons for the Tribunal's Decision

151. The Applicants relied on the same arguments advanced in relation to the 2023 accountancy fees. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 124 to 125 above, we consider the amount claimed is no greater an amount than is reasonably payable.

The Tribunal's Decision on Management Fee December 2023/2024

152. We find the cost of £1,857.60 estimated management fee is no greater an amount than is reasonably payable.

Reasons for the Tribunal's Decision

153. The Applicants relied on the same arguments advanced in relation to the 2023 management fees. Mr Horne maintains the estimate is reasonable, and is based on the reasonable costs incurred in 2023.

154. Based on our reasons given in respect of this cost for 2022/2023 at paragraphs 127 to 128 above, we consider £1,857.60 is no greater an amount than is

reasonably payable. It represents a reasonable increase on the amount the Respondent sought in 2023. And although we reduced the amount originally claimed, that was based on problems with the service provided, which we have no evidence to indicate will reoccur.

The Tribunal’s Decision on Repair Fund

155. We consider £2,000.00 is no greater an amount than is reasonably payable.

Reasons for the Tribunal’s Decision

156. Mrs Gayle objected to this in the grounds that when urgent repairs were required to the roof above Flat 55D, the Respondent failed to deal with this, and Mr Gayle had to pay for works to be done himself, for which he is still pursuing reimbursement by the Respondent.

157. We do not consider that £2,000 is an unreasonable sum to budget for repairs, particularly having regard to the age of the building. Accordingly, we consider £2,000 is not a greater amount than is reasonably payable.

Summary of the Tribunal’s Decision on the 2024 Service Charges

Item	Cost claimed by the Respondent	Tribunal’s decision	Paragraph reference for Tribunal’s decision
Insurance	£2,902.49	£2,902.49	Paras 130 – 132
Window cleaning	£450.00	£450.00	Paras 133 – 135
Fire Health & Safety Testing	£600.00	£600.00	Paras 136 – 138
Inspection & cleaning of gutters and downpipes	£450.00	£200.00	Paras 139 – 141
Fire Health & Safety Services	£750.00	£750.00	Paras 142 - 144
Drains Service	£350.00	£0	Paras 145 - 147
Fire and safety risk assessment	£450.00	£0	Paras 148 - 149
Accountant	£540.00	£540.00	Paras 150 - 151
Management fee	£1,857.00	£1,857.00	Paras 152 - 154
Repair fund	£2,000.00	£2,000.00	Paras 155 - 157

Application under s.20C and refund of fees

158. Mr Gayle requested a refund of the fees that he had paid in respect of the application/ hearing¹. Having heard from the parties and taking into account the determinations above, the Tribunal orders the Respondent to refund any fees paid by Mr Gayle within 28 days of the date of this decision. It is our understanding that Ms Thomas has not paid any Tribunal fees in respect of this application.

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

159. In the application Mr Gayle applied for an order under section 20C of the 1985 Act. Having heard from the parties 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. We have taken into account Mr Gayle sought to obtain information from the Respondent in order to receive a breakdown and understand the reason for the costs being claimed from him. However, the Respondent did not respond to Mr Gayle's enquiries. In the circumstances, he applied to the Tribunal to resolve this matter, and he has been in part successful. We note that the Respondent has only provided limited documentation which relates to 2022/2023 only, and these documents were provided belatedly. The Respondent has not provided any documentation in respect of the sums claimed for June to December 2022.

Name: Judge Tueje

Date: 28th October 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).