



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

**Tribunal Case Reference** : **LON/00BG/LSC/2024/0213**

**Property** : **Flat 101, 49 Derbyshire Street,  
London E2 6GW**

**Applicant** : **Matthew Aleksic**

**Respondent** : **JCS Developments Ltd**

**Representative** : **Paul Robinson Solicitors**

**Type of Application** : **Payability of service charges**

**Tribunal** : **Judge Nicol  
Ms M Krisko FRICS**

**Date and venue of Hearing** : **9<sup>th</sup> December 2024  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **10<sup>th</sup> December 2024**

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**DECISION**

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- (1) The parties settled the majority of issues in this application as set out in the Tribunal's decision below.**
- (2) In relation to the remaining issue, the service charges for cleaning in the years 2022 (last 3 months) and 2023 are reduced by 15%.**

Relevant legislation is set out in the Appendix to this decision.

**Reasons**

1. 49 Derbyshire Street is a block containing 7 flats. The Applicant has been the leaseholder of one of the flats since September 2022. The Respondent

is his landlord. The Respondent managed the building while its development was completed but, for the time the Applicant has been a lessee, the managing agents have been MDB Properties Ltd.

2. The Applicant applied under section 27A of the Landlord and Tenant Act 1985 for the determination of the payability and reasonableness of certain actual service charges for the years 2022 and 2023 and the estimated charges for 2024. The Applicant also applied for costs orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 and indicated he intended to seek a costs order under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
3. The Tribunal issued directions on 13<sup>th</sup> June 2024. The hearing of the application took place on 9<sup>th</sup> December 2024. The attendees were:
  - The Applicant, representing himself
  - Mr John Beresford, counsel for the Respondent
  - Mr Matthew Bonner, a manager with and witness for the Respondent
  - Ms Ashley Williams, trainee solicitor from the Respondent's solicitors.
4. The documents before the Tribunal consisted of:
  - A Bundle of 937 pages; and
  - Skeleton arguments from each party.

*Preliminary matter*

5. On Friday 6<sup>th</sup> December 2024 the Applicant applied to the Tribunal for permission to rely on a 22-page supplementary bundle of new documents. He sent the new documents to the Respondent's solicitors on Saturday 7<sup>th</sup> December so that neither they nor counsel saw it until just before the hearing was due to start on Monday 9<sup>th</sup> December 2024.
6. The bundle contained 3 categories of documents:
  - (a) There were photos allegedly showing the existence and effects of damp penetration in the building. The Applicant sought to argue that the management fee was unreasonable to the extent that the Respondent had failed to address outstanding disrepair. The Tribunal explained to the Applicant that his allegations amounted to a claim for damages for breaches of the repairing covenants in the lease, for which the Tribunal does not have jurisdiction so that his remedy lies elsewhere. Therefore, these documents were not relevant in any event.
  - (b) Online quotes from 3 domestic cleaning services. The directions had required the Applicant to produce alternative quotes, amongst his other documents, by 29<sup>th</sup> August 2024. He had no reason for his failure to produce the quotes earlier other than oversight.
  - (c) A witness statement dated 6<sup>th</sup> December 2024 from a neighbour, Ms Susan Chan. She was not present to be cross-examined on it. Her statement dealt mostly with the disrepair already referred to above but

also with the reasonableness of the cleaning service. Again, the Applicant had no reason to give as to why this witness statement had not been made and provided sooner.

7. The Tribunal's directions have two main purposes: to ensure fairness between the parties and efficiency in the disposal of the proceedings. Non-compliance makes either objective more difficult to achieve. Producing new material this late makes it near impossible. The Respondent has had no opportunity to consider the new material, let alone to work out how to respond to it, including by providing new evidence of their own.
8. In the circumstances, the Tribunal decided to exclude the Applicant's supplementary bundle.

#### *Narrowing of issues*

9. While the Tribunal was considering the application about the supplementary bundle, the parties sensibly took the opportunity to begin discussions to narrow the issues. They asked for and were given more time to continue their discussions. Those discussions resulted in agreement on the following issues:
  - (a) The management fee for the final 3 months of 2022 is reduced by 50% from £490 to £245.
  - (b) The accountancy fee for the final 3 months of 2022 is reduced by 50% from £400 to £200.
  - (c) The management fee for 2023 is reduced by 50% from £3,010 to £1,505.
  - (d) The accountancy fee for 2023 is reduced by 50% from £800 to £400.
  - (e) The actual figure for the management fee for 2024 will be reduced by one-third (the precise figure will be calculated on production of the accounts).
  - (f) The parties do not require a ruling on the reasonableness of the estimate for the accountancy fee for 2024.
  - (g) The Respondent will reimburse the Applicant half of his Tribunal fees of £330 (£165).
  - (h) The Applicant will not pursue an application for costs in relation to the current proceedings under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
  - (i) The Respondent will not charge any of their costs of these proceedings to any of the lessees, including the Applicant.

#### *Cleaning*

10. The parties were unable to reach agreement on the final issue, namely the service charges for internal cleaning. For the whole building, they were:
  - 2022 (last 3 months) £400
  - 2023 £2,400
  - 2024 (estimate for both internal and external cleaning) £3,969

11. The Applicant challenged the frequency and standard of the cleaning and the reasonableness of the costs.
12. The cleaners were said to attend every two weeks or so. The parts of the building needing cleaning consisted of glass entrance doors, a lobby/hall, a bin room, a bike store and a stairwell up to the fourth storey. The external window cleaning was separate but, despite being the Respondent's obligation under the lease, has never been done or charged for. No specification or contract was produced and Mr Bonner was unaware whether the agents had one on file or not – no explanation was given as to why this information had not been obtained.
13. The Applicant said he and his fellow lessees almost never saw the cleaners while they did see debris on the floors and marks on the front entrance door and to other areas which remained for longer periods than two weeks at a time. Mr Beresford emphasised the natural limitations of the Applicant's evidence, namely that he wasn't in a position to observe the cleaners' comings or goings and it was entirely possible for communal areas to get dirty quickly in the period between cleaning visits.
14. When the Applicant asked for evidence of the cleaners' attendance, it turned out that the cleaners from the contractors, Tulip, were not following standard procedure in that they did not sign log sheets on each attendance. When Mr Bonner found out about this in August 2023, he personally took log sheets to the property and told the agents to get the cleaners to use them. However, they were still not used until the following year. Even then, only one sheet, showing 5 dates in the period April-June 2024, made it into the hearing bundle. Somewhat bizarrely, the Respondent's solicitor suggested the disclosure of such documents involved data protection issues for the cleaners and suggested that the fact that they were in the physical possession of their agents presented some kind of barrier to disclosure.
15. Instead, the Respondent relied on circumstantial evidence. The cleaners regularly forwarded utility bills addressed to the Respondent at the property. Tulip sent regular invoices and the Respondent had no reason to doubt the basis for them. Mr Bonner spoke to the cleaners about why their visits were not always exactly two weeks apart and was satisfied with their response.
16. There are CCTV cameras at the entrance to the property. The Applicant asked for footage to monitor the cleaners' attendance. It turns out they were dummy cameras and so there was no footage. The agents did not tell the Applicant this for a while. The Applicant did not notice the lack of any CCTV charge on the service charge breakdown or accounts. The Applicant did not collect evidence instead of the CCTV. Both parties seemed to think each other's actions were suspiciously inadequate or sinister – the Respondent also relied on the Applicant not complaining for the first 7 months of his residence. In the Tribunal's opinion, both parties were looking for significance where there wasn't really any to find. The Applicant had a busy work life and the Respondent and their agents had

other matters to attend to. It is not surprising that this issue was not accorded a higher priority than it was by either of them.

17. Both parties produced photos. The Applicant's showed dust and dirt on the floor of the bike store, a dirty palladin and extensive marks on the glass of the front entrance doors. Mr Bonner's showed a clean lobby/hall and stairwell. Unfortunately, they were only taken each at one particular time – Mr Bonner admitted that his were taken soon after a cleaning had taken place.
18. The Tribunal asked about the marks on the front door. The Respondent's explanation was that the outside of the doors was part of the external cleaning which was neither done nor charged for. The Tribunal struggled to understand this. Most of the external cleaning consisted of cleaning windows, many at a high level, which would be an entirely separate task, with separate equipment and materials, compared to the cleaning of the interior. That comment does not apply to the outside of the glass front entrance doors which are identical to the inside, would require the same materials and could be done at the same time. The cleaning of only one side would have little impact since the dirt or marks on the other side would be apparent from both sides.
19. While they were still managing the building themselves, the Respondent used their own cleaner, a modest one-man outfit who already cleaned a number of their other properties. He charged £50 per visit rather than the £100 charged by Tulip. The Applicant argued that the £50 charge showed that the £100 was too high, although he was unable to explain why it couldn't equally work the other way, with the £100 charge being the benchmark and the £50 charge being too low. In any event, Mr Bonner was able to explain much of the difference by pointing out that the Respondent's cleaner had travelled by bike, avoiding parking and congestion charges, and had been provided with all equipment and materials.
20. Nevertheless, the Tribunal put to the Respondent that, based on its own expert knowledge and experience, £100 seemed on the high side given the relatively small area which required cleaning (and which excluded the outside of the front door), even after taking into account incidentals like parking and congestion charges, petrol and materials. While the Applicant could have but failed to produce comparable quotes, the same equally applies to the Respondent. They and their agents employ cleaners on other sites and the agents might even have carried out a tendering or market testing exercise before alighting on Tulip as their contractors. In any event, they should have the resources to provide their own comparables but chose not to do so.
21. Taking into account all these matters, the Tribunal is not satisfied that the Respondent was able to discharge the evidential burden to show that the actual cleaning charges for 2022 and 2023 were reasonably incurred or of a reasonable standard. In the Tribunal's judgment, a reasonable amount would be 15% less, being £340 and £2,040 respectively.

22. In relation to the charge for 2024, it is only an estimate. What has actually been happening, including the actual charges so far in 2024, are not a proper measure. Further, if the actual charges turn out to be less, the lessees will receive a credit. If they turn out to be higher or unreasonable for any reason, the Applicant retains his ability to challenge them. The Tribunal is not satisfied that the Applicant has shown any sufficient basis for challenging the reasonableness of the estimate.

**Name:** Judge Nicol

**Date:** 10<sup>th</sup> December 2024

## **Appendix of relevant legislation**

### **Landlord and Tenant Act 1985**

#### **Section 18**

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

#### **Section 19**

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

#### **Section 27A**

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
  - (a) the person by whom it would be payable,

- (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
- (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or
  - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.