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

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| **Case reference** | **:** | **LON/00AG/LSC/2024/0255** |
| **Property** | **:** | **St Andrews House, 252 Gray's Inn Road, London WC1X 8JT** |
| **Applicant** | **:** | **252 Gray's Inn Road Limited** |
| **Representative** | **:** | **Mr Kyle Duncan** |
| **Respondent** | **:** | **Mrs Alison Penelope June Rennie** |
| **Representative** | **:** | **n/a** |
| **Type of application** | **:** | **Determination of the liability to pay and the reasonableness of service charges, s27A Landlord and Tenant Act 1985** |
| **Tribunal members** | **:** | **Judge Mark Jones**<br>**Mr John Naylor FRICS FIRPM** |
| **Venue** | **:** | **10 Alfred Place, London WC1E 7LR** |
| **Date of hearing** | **:** | **10 February 2025** |
| **Date of decision** | **:** | **11 February 2025** |

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**DECISION**

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## Decisions of the tribunal

(1) The Tribunal determines that the charges claimed by the Applicant landlord as service charges in respect of Flat 2, St Andrews House, 252 Gray's Inn Road, London WC1X 8JT ("***the Property***"), for the service charge year 2022 to 2023 are payable by the Respondent tenant in the sum of £3,225.90.

(2) The Tribunal determines that the charges claimed by the Applicant landlord as service charges in respect of the Property in advance for the service charge year 2024 to 2025 are payable by the Respondent in the sum of £480.

(3) The Tribunal orders the Respondent to reimburse the Applicant's Tribunal fees paid upon making the application, and for the hearing, in the total sum of £330.

(4) The Respondent is accordingly liable to pay to the Applicant the total sum of £4,035.90.

## The Tribunal's Reasons

## The application

1. The Applicant landlord seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("***the 1985 Act***") as to the amount of service charges payable by the Respondent tenant in respect of the service charge years:

    1.1 1 April 2022 to 31 March 2023, and

    1.2 1 April 2024 to 31 March 2025.

2. The Applicants also sought an order that the Respondent reimburse the application and hearing fees paid.

## The Hearing

3. Pursuant to directions given on 26 September 2024 and amended on 29 October 2024, the application proceeded as a face-to-face hearing on 10 February 2025.

4. The Applicant was represented by Mr Kyle Duncan, who is a director of the Applicant company, accompanied by his husband Mr Jason D'Heureux, who is company secretary. They were accompanied by an acquaintance, Miss Robinson, who did not address the Tribunal.

5. The Respondent did not attend the hearing, having previously written to the Tribunal to indicate that she did not wish to do so, and was unrepresented.

6. The Respondent's case was set out in writing in a Statement of Case, as directed by the Tribunal, and in a written response to the Applicant's evidence, which by email sent in advance of the hearing she indicated she wished to rely on as her skeleton argument, augmented by a number of documents and photographs.

7. The Respondent's submissions had been included in a bundle filed by the Applicants, which numbered some 270 pages.

8. Whilst the Tribunal makes it clear that it has read the bundle, the Tribunal does not refer to every one of the documents in detail in this Decision, it being impractical and unnecessary to do so. Where the Tribunal does not refer to specific documents in this Decision, it should not be mistakenly assumed that the Tribunal has ignored or left them out of account.

9. Mr Duncan and Mr D'Heureux each addressed us, and in the absence of the Respondent the Tribunal questioned them in relation to the Applicant's case, and the documents in the bundle. We are grateful to each for their assistance.

10. This Decision seeks to focus solely on the key issues. The omission to refer to or make findings about every statement or document mentioned is not a tacit acknowledgement of the accuracy or truth of statements made or documents received. Not all of the various matters mentioned in the bundles or at the hearing require any finding to be made for the purpose of deciding the relevant issues in this application. The Decision is made on the basis of the evidence and arguments the Applicants presented, as clarified by the Tribunal in the hearing, and is necessarily limited by the matters to which the Tribunal was referred.

## Background

11. The building at St Andrews House which is the subject of this application is a residential building of 4 storeys, comprising two one-bedroom flats and a 2-bedroom maisonette. Each of the three lessees is the holder of a share in the Applicant company which exists for the purpose of maintaining and managing the building in accordance with the leases of the flats therein.

12. The Respondent is the lessee of Flat 2 in the building; Mr Duncan is the lessee of Flat 3. The third leaseholder was the Respondent's late mother, Mrs June Toleman, who has passed away, and her estate has yet to be distributed by the executors.

13. Neither party requested an inspection, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

**The Lease Provisions**

14. The bundle contains a copy of the Respondent's lease of Flat 2 (pp. 41-61).

15. The Applicant's obligations by way of provision of services, including maintenance, repair and so on, are defined in clause 4 of the lease, and the sub-clauses thereunder. Clause 4.2 contains the Applicant's insuring obligations for the building.

16. Clause 1.11 defines *"the Maintained Property"* as including, *inter alia*, the structure and exterior of the building, the entrance forecourt at road level and the entrance hall passages and staircase.

17. By clause 4.4 the Applicant is obliged to keep the Maintained Property and all fixtures and fittings therein and additions thereto in a good state of repair and condition, including the renewal and replacement of all worn or damaged parts.

18. Clauses 5.2 and clause 1 of the Third Schedule defines the *"Maintenance Charges"* as the aggregate amount reasonably expended by the Applicant in the performance and observance of its obligations, calculated annually from 1 April.

19. Clause 1 of the Third Schedule also permits the Applicant to establish a reserve fund to be held against the anticipated costs of performing its obligations.

20. Clause 5.1 of the lease obliges the Respondent to pay to the Applicant by two equal instalments the lessee's proportion of the amount estimated by the Applicant to cover the maintenance charges for that year.

21. Clause 5.1 of the Third Schedule obliges the Respondent to pay to the Applicant on account of the maintenance charges a "minimum payment" in equal instalments on 7 April and 7 October each year, calculated as defined in clause 5.2 of that Schedule as the sum of £600, or such greater sum as the directors of the Applicant might by resolution determine from time to time to be the appropriate amount reasonably required to enable the Applicant to discharge its outgoings for the relevant year.

22. Clause 5.3 of the lease contains a mechanism for provision by the Applicant of a statement from its auditors after the end of each service charge year, from which such adjustment as might be necessary to the

maintenance charges shall be calculated, and if required paid on the next date for payment of contributions to maintenance charges.

23. It appears that by agreement between the Applicant, lessor and lessees, the Applicant has charged to the Respondent 30% of the total expenditure anticipated and/or incurred in performance of its obligations. The Respondent's obligation under the lease is, therefore, to contribute 30% of the Applicant's properly incurred and properly invoiced expenses of complying with such obligations.

## The Scope of the Tribunal's Jurisdiction on the Application

24. The Tribunal is asked to determine the reasonableness under s.19 of the 1985 Act, and liability to pay under section 27A of the 1985 Act of service charges for the years 1 April 2022 to 31 March 2023, and 1 April 2024 to 31 March 2025. We were informed that the intervening year, 2023 to 2024 is not in dispute.

25. The Tribunal has considered whether individual service charge costs were reasonably incurred, or services provided to a reasonable standard under section 19 of the 1985 Act. It also has power to determine whether sums are payable under section 27A of the 1985 Act, whether under the terms of the lease or by another law.

## The Law

26. The text of the 1985 Act may be viewed at:

https://www.legislation.gov.uk/ukpga/1985/70/contents

27. Section 18 of the 1985 Act defines *"service charges"* 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.*

28. S.19 of the 1985 Act deals with limitation of service charges:

*(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 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.*

29. S.27A of the 1985 Act addresses questions of liability to pay service charges:

*(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.*

## The Issues

30. The disputed service charges for 2022/3 related to the total sum of £3,225.90 sought by the Applicant as the Respondent's 30% share of its expenditure in respect of the following items:

    a) Replacement door and frame £2,782.27

    b) Replacement intercom system £643.68

    c) Door ironmongery £49.95.

31. Those sums total £3,475.90. The claim in the application reduces that sum by £250, which had been awarded to the Applicant by order of Deputy District Judge Common made on 6 October 2023 in Mayors and City of London County Court claim no. 388MC994, in proceedings where the Applicant had sought to recover from the Respondent the entire sum in issue, now, in this application, but was limited to recovery of £250 for its failure to follow the consultation requirements of section 20 of the 1985 Act and the Service Charges (Consultation Requirements) (England) Regulations 2003. That sum has been paid, along with £550 in costs that were awarded to the Applicant.

32. That, in turn, led to the Applicant applying to the Tribunal under Section 20ZA of the 1985 Act (case ref. LON/00AG/LDC/2023/0270) for dispensation from the statutory consultation requirements in respect of those works, which was granted by decision dated 9 April 2024 following a contested hearing before Judge Nicol, Mr Waterhouse and Mr Piarroux, on the basis that the Respondent had not demonstrated that she had suffered prejudice from the failure to consult.

33. The Respondent's case, in short, was that the proper consultation process had not been followed. She questions why the door was replaced, as opposed to being repaired, she queries the specifications of the replacement obtained and why a series of contractors identified by her in July 2022 had not been approached to provide quotes for repair and replacement. In her response to the Applicant's evidence she also suggests that the cost of the replacement door was finally determined in the County Court order.

34. The Respondent also denies that Mr Duncan represents the Applicant, or that the various meetings adverted to below were legitimately called.

35. As to the service charge year 2024-5, two demands had been made in the sum of £540 each, totalling £1,080, being 30% of the Applicant's estimated costs of £3,600 to comply with its obligations.

36. The Respondent's case as articulated in her written statement is to the effect that the sums demanded are arbitrary. In apparent reliance upon the defined minimum sum in clause 5.2 of the Third Schedule to the lease, the Respondent had paid just £600, so that the outstanding balance sought by the Applicant is £480.

**Evidence – Overview**

37. Much of the evidence was documentary. In early 2023 Mr Duncan and Mr D'Heureux as officers of the Applicant perceived a need to replace the front door and intercom system at the building. The intercom had not functioned correctly for many years, with no working audio or video functionality, only permitting callers to be buzzed into the building without the ability to speak with them, which presented an obvious security risk.

38. A greater risk was presented by the door, which had been insecure and indeed presented a hazard for a considerable period. On occasions it had not closed properly, leaving the building insecure to the extent that undesirable individuals had gained entry and, amongst other antisocial behaviours, had urinated in the common parts and were suspected to have taken illegal drugs therein. The closer mechanism made the door extremely heavy to use, so that it was prone to slamming with great force, presenting a danger to children and the elderly, in particular. We heard that it was so perilous that the regular postman to the building refused to enter. When the door did slam the noise was deafening, but the latch could not be relied upon to function. Further, the door was situated above two steep steps rising approximately 50 cms from the pavement, and the keyhole was located high in the door's face, so that when standing on the pavement it was at a height of around 180 cms, and very difficult for shorter persons to operate.

39. Further problems with the door included a large gap between the top and the frame, and a crack at its base, permitting draughts to enter the building, and the fact that it opened into a narrow hallway which, due to the presence of the closer mechanism, it could never be opened to an angle of more than around 70°, at which point it would slam into the internal wall.

40. Albeit that they did not attend to give evidence, and we therefore afford their statements somewhat less weight than would have been the case of witnesses who attend to give evidence in person, we find this description of the door to be corroborated by the statements of Dr Vignesh Jayarajan, occupier of Flat 1 with his wife and son from 2021 to (at least) April 2023, and of Mr Dunja Gorup, who was the tenant of Flat 2 between 2020 and early 2023.

41. We considered correspondence and minutes of meetings within the bundle where these issues were ventilated in detail, commencing with an

AGM on 30 June 2022. This was followed by emails from Mr D'Heureux dated 13 January 2023 forwarding two estimates of costs for replacement of the door, and summarising his researches for the costs of replacing the intercom system. Mr D'Heureux then wrote on 18 January 2023 regarding the deteriorating condition of the door, replacement of which had in his view become imperative, where it had taken repeated slams in the middle of the night to force the latch to engage. The correspondence contained a series of requests for information from the Respondent, who had previously managed the building.

42. The Respondent's response, dated 20 January 2023, was to write to Mr D'Heureux informing him that she had blocked both his and Mr Duncan's email addresses, and to request that all communication henceforth be sent by post, which we were told had been done thereafter.

43. Mr D'Heureux wrote to all parties again on 27 January 2023, forwarding 4 estimates for replacement of the door and the surrounding frame, which was a condition precedent of each of the putative contractors. These estimates were within the narrow band of £8,192.40 to £9,120 inc. VAT. These were all for replacement of the door with a high-quality substitute, including replacement of the frame and the fanlight above. The replacement door would contain a concealed closer constructed within the frame, which would pull the door in a controlled and safe manner, and lock automatically, eliminating the security risk and hazard to health presented by the existing door, and indeed the draughts entering the building.

44. Mr D'Heureux also circulated an estimate for a Securifix intercom system, at £2,145.60 inc. VAT, and we have seen two further estimates for similar systems: albeit that these systems included video intercom functionality, we were informed that this cost little more than a system limited to audio, and that the lessees and occupiers of the flats within the building wished the additional security provided by the video system.

45. Against the perceived security risk, Mr Duncan as director of the Applicant selected the Banham Security quotation for replacement of the door and surround, which while slightly more expensive than the other quotations appeared to him to present the most secure solution, in which he and Mr D'Heureux felt they had the most confidence, which was accompanied by a 40-year warranty for the quality of the wood, and perhaps most importantly could be delivered within a timeframe of 8 to 12 weeks, as against other potential suppliers who quoted lead times of at least 16-20 weeks.

46. The Applicant paid a deposit of £4,565.89 to Banham for the door work on 13 February 2023.

47. The Applicant held a general meeting on 20 February 2023, attended remotely by Mr Duncan, Mr D'Heureux, Mr Robert Toleman and Mr

Gordon Davies, who each held lasting power of attorney for Mrs June Toleman, the owner of Flat 1 and holder of one ordinary share in the Applicant Company. Mr Duncan and Mr D'Heureux together held one share, while the Respondent who also holds one share was not in attendance, having been invited.

48. The minutes of the meeting disclose that those present agreed to the Banham works and to the installation of the Securifix system, and that the expenses should be paid as a one-off charge to the lessees, rather than through a significantly increased service charge in 2023/4. Cognisant of the Respondent's anticipated lack of agreement, the other lessees agreed to pay all costs incurred and then seek them from her, through what transpired to be the County Court proceedings and what has evolved (now) into the present application.

49. The Applicant paid £1,072.80 to Securifix as a deposit for installation of the intercom system on 20 February 2023, and £166.50 to Suffolk Latch Company Ltd for door furniture on the same date.

50. The minutes of a further annual general meeting on 3 April 2023 reveal that by then £11,586.36 had been paid by Mr Duncan and Mr D'Heureux by way of their share, and a loan (in part) for the other lessees, to cover the Applicant's incurred expenditure and anticipated final payment for the door and intercom works, which they anticipated recovering from the other lessees. A projected budget for 2023/4 was agreed at £3,600, including a small reserve, which was as summarised above expressly permitted by the lease.

51. The Applicant paid Securifix the final payment of £1,072.80 for the intercom system on 6 April 2023, and paid Banham the balance of £4,708.37 for the door, frame and fanlight on or about 31 May 2023.

52. The case for the Respondent is set out in her statement of case, augmented by her response to the Applicant's evidence, as identified above. She has produced a series of photographs of the old door, and a video of its condition, to which we have had regard.

## Analysis

53. The legitimacy of the meetings of the Applicant's shareholders on 30 June 2022 and 20 February 2023 was considered by Deputy District Judge Common in the County Court proceedings. He concluded:

*"It follows that both meetings were called and held, and their decisions so far as are relevant to this claim are ones which bind the company. … Accordingly, subject to the building works notice issue below, the claim is made out…"*

54. We agree.

55. We also agree that Mr Duncan, as director, is well able to represent the Applicant in the present proceedings. Such is part of a company director's function, with the support of a majority of the shareholders.

56. We reject the Respondent's contention that the issue of the cost of the replacement door was finally determined in the County Court. The determination in those proceedings was constrained by the statutory cap imposed in consequence of the failure of the Applicant to follow the consultation procedures under the 1985 Act, as the judgment made clear.

57. That problem for the Applicant was resolved by the decision of this Tribunal granting dispensation from the statutory consultation requirements on 9 April 2024.

58. The Tribunal is left then, to consider whether the service charges in issue were reasonably incurred and, where they relate to the replacement of the door and its surround, and the installation of the intercom system, whether the works in issue were effected to a reasonable standard.

59. In relation to the door replacement, we have no hesitation in concluding that the expenses were reasonably incurred. The old door presented both a security risk and a hazard to the health of occupiers of and visitors to the building. The Tribunal finds that the Applicant took reasonable steps to explore the options for replacement, which was itself preferable – and therefore reasonable – as an alternative to simply seeking to repair the existing door which was unfit for purpose. The Applicant acted reasonably in obtaining estimates for the work, and we find it acted reasonably in selecting Banham to undertake that work. Albeit that this was (slightly) more expensive than the other quotations obtained, there is no obligation in the Applicant to select the lowest possible price for the service in issue. Having evidently considered a series of options, it selected the contractor that gave it the most confidence, and what appeared to be the best product available, backed by a warranty, effectively future-proofing the installation of the door, and could be installed substantially more swiftly than competitors could offer.

60. We find that the replacement of the surrounding door frame and fanlight were necessary adjuncts of the door replacement, and as such were also reasonably incurred, as was the modest provision of ironmongery attached to the door.

61. We similarly find that the replacement of the intercom system was a service reasonably incurred, to the benefit of the lessees, being self-evidently an installation that would enhance their security.

62. In so finding we accept the Applicant's evidence as to the decision-making processes that were undertaken, and how it acquired estimates and decided upon the contractors to undertake the works. The Tribunal also notes that the Respondent offered no persuasive evidence of any alternative estimates, or that her apparent preferred option of simply effecting repairs might have resolved the serious issues affecting the door and intercom system.

63. As to the service charge year 2024-5, we accept the Applicant's evidence that a projected budget of £3,600 for the building was approved by a majority of the shareholders at the AGM of 3 April 2023, for the year 2023-4. We also accept the Applicant's evidence that that sum has been determined to be the appropriate amount reasonably required to enable the Applicant to discharge its outgoings for the year 2024-5, based on a modest provision of services limited to insurance (by far the most expensive item), communal electricity, cleaning, gutter cleaning and contributions to a reserve fund, accountancy and clerical fees.

64. We reject the Respondent's assertion that the sums demanded are arbitrary.

65. We also reject the Respondent's reliance on the defined minimum sum in clause 5.2 of the Third Schedule to the lease. That clause specifically empowers the Applicant to demand a higher sum if reasonably required to fund its compliance with its obligations, as we find the Applicant has done.

## The Tribunal's Decision

66. The Tribunal determines that the charges claimed by the Applicant from the Respondent as service charges for the service charge year 2022 to 2023 are payable in the sum of £3,225.90.

67. The Tribunal determines that the charges claimed by the Applicant from the Respondent as service charges for the service charge year 2024 to 2025 are payable in the sum of £480.

## Reimbursement of Tribunal Fees

68. The Applicant has also applied under paragraph 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for an order that the Respondent reimburse their application fee of £110.00 and the hearing fee of £220.00.

69. As the Applicant's claim has been successful in its entirety, we are satisfied that it is appropriate in the circumstances to order the Respondent to reimburse these fees. In so directing, we take particular

notice of the fact that the Applicant is entirely funded by the lessees of the building.

**Name:** Judge Mark Jones **Date:** 11 February 2025

## 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).