



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

Case reference : LON/00AN/LSC/2023/0452

Property : 135 Wood Lane, London, W12 7ED

Applicant : Ebele Muorah

Representative : In person

Respondent : London Borough of Hammersmith & Fulham

Representative : Mr Tempest (counsel)

Type of application : The payability of service charges under section 27A of the Landlord and Tenant Act 1985

Tribunal members : Judge Tueje
Mr J Naylor FRICS

Venue : 10 Alfred Place, London WC1E 7LR

Date of hearing : 17th January 2025

Date of decision : 3rd March 2025

DECISION

In this determination, statutory references relate to the Landlord and Tenant Act 1985 unless otherwise stated.

DECISION OF THE TRIBUNAL

- (1) The Tribunal makes the determinations set out at paragraphs 35 to 78 below
- (2) The applications under section 20C and paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 are refused for the reasons stated at paragraph 81 below.
- (3) The Tribunal refuses the Applicant's request that the Respondent reimburses the tribunal fees paid by them for the reasons stated at paragraph 81 below.

THE APPLICATION

1. By her Application dated 23rd November 2023, Ms. Muorah seeks a determination pursuant to section 27A as to the reasonable amount payable for service charges. In the schedule accompanying her application titled SERVICE CHARGE YEAR IN QUESTION (the "Schedule"), Ms. Muorah clarifies the dispute relates to the periods 2020/2021, 2021/2022, 2022/2023, and 2023/2024.

THE HEARING

2. The Application was heard on 17th January 2025.
3. Ms. Muorah attended the hearing; she was not represented. She had prepared a 106-page hearing bundle containing her documents only. Ms. Muorah's bundle included documents she had prepared in support of the application, including the following:
 - 3.1 The claim for set off against the service charges dated 14th June 2024;
 - 3.2 Statement setting out the relevant provisions in the lease; and
 - 3.3 Witness statement of Ebele Muorah dated 14th June 2024.
4. The Respondent did not provide any witness statements nor prepare a bundle for the hearing. It was represented by Mr. Tempest, counsel, who provided a letter from the Respondent dated 14th February 2019 dealing with consultation in respect of buildings insurance. The letter contained 4 insurance quotations the Respondent had been obtained, with details of the insurance provider it intended to appoint. Mr Tempest had also entered the Respondent's comments in the space provided in the Schedule prepared by Ms Muorah.

5. Ms. Muorah requested an adjournment in order to consider the Respondent's comments entered onto the Schedule, because this had only been given to her that morning.
6. The Tribunal refused Ms. Muorah's request for an adjournment. We took into account that she is a litigant in person who had only just been given the Respondent's comments, but we note that the Respondent's comments were brief and somewhat repetitive. We also took into account that the Application was submitted in November 2023, an earlier final hearing had already been adjourned, the cost of adjourning, not only in respect of the Respondent's legal fees, but also as regards the Tribunal's resources. Therefore, we allowed Ms. Muorah additional time to read and prepare any response to the Respondent's comments, and the hearing began at around 1.05 pm after an early extended lunch break, to allow Ms. Muorah that opportunity.

BACKGROUND

Introduction

7. The Application relates to 135 Wood Lane, London, W12 7ED (the "Premises"). The Premises are a maisonette on the ground and first floors, with a maisonette on the second and third floors immediately above the Premises, which part form of a terrace of maisonettes.
8. The accommodation comprises a living room and kitchen on the ground floor, in addition to a storage area. There are two bedrooms on the first floor, and a bathroom and separate WC.
9. The Respondent is the freeholder of the Premises, and the Applicant, Ms. Muorah, is the leaseholder.

Relevant terms of the lease

10. The Tribunal has identified the following provisions in the lease as relevant to the matters in dispute.
11. The First Schedule to the lease contains the definitions, which include the following:
 - (iii) *"the Property" means the land and buildings of which the Demised Premises forms part which is for the purposes of identification only now shown edged black on the plan annexed hereto and reference there to includes any buildings erected their own but subject to any modification there of which may at any time be made pursuant to paragraph three of the Fourth Schedule hereto*

...

(iv) *“the Building” means the block of flats erected on the property known as 119-155 (odd) Wood Lane, London W12 shown coloured blue on the said Plan*

...

(xi) *“the Common Parts” means all those parts of the Property not exclusively enjoyed by lease licence or otherwise by the Lessee or the occupiers of any other part of the Property*

...

(xiii) *“the Amenity Lands” means the pedestrian areas now shown hatched on the said Plan including any Play Areas which all not or may at any time form part of the pedestrian areas but subject to any modification thereof which may result from the Lessor exercising its rights pursuant to paragraph 3 of the Fourth Schedule hereto*

12. Part I of the Sixth Schedule to the lease sets out the Respondent’s obligations, which includes the following at paragraph 1:

To repair and maintain (and to renew and improve as and when the Lessor may from time to time in its absolute discretion consider necessary or desirable):

...

(d) *the boundary walls and fences of and in the curtilage of the Property (if they are the responsibility of the Lessor) BUT EXCLUDING Part of the Property forming part of the demised premises by virtue of the Second Schedule*

(e) *the structure of the Building and in particular the roofs foundations external and internal load bearing walls window frames (excluding the internal surface is thereof) and timbers (including the Timbers joists and beams of the floors and ceilings thereof) chimney stacks gutters and rainwater soil and waste pipes (but in any case excluding the Demised Premises) Provided that if the Lessor carries out any work to the load bearing walls within the Demised Premises it will make good all damage thereby occasioned to the plaster covering's plaster work tiles and all other materials*

...

(g) *the passages landings and staircases and all other parts of the Building enjoyed or used by the Lessee in common with others*

13. Paragraph 3 of Part I of the Sixth Schedule continues:

So far as practicable :-

- a) *to keep clean and reasonably lighted the passages landings staircases and other parts of the Building enjoyed or used by the Lessee in common with others and*
 - b) *to keep clean and tidy and reasonably lighted the amenity Lands and the roadways referred to in Para. 1(a) hereof used in connection with the Building or the Property or adjoining or adjacent thereto being the property of the Lessor*
14. Part I of the Eighth Schedule to the lease sets out the costs and expenses comprising the service charges. Those costs and expenses which are relevant include:
- 14.1 The cost of complying with its obligations in Part I of the Sixth Schedule, except for paragraphs 1(f)(ii), 5(a), and 5(b)(i), which do not apply to the dispute in this case;
 - 14.2 The cost of removing and disposing of refuse from the Building, including the cost of hiring containers or skips, etc.
 - 14.3 The cost of maintaining the Amenity Lands and keeping them in good condition.

Witness statement of Ebele Muorah

15. In her witness statement dated 14th June 2024, insofar as is relevant, Ms. Muorah states that she purchased the Premises in January 2020. She was particularly attracted to the Premises because of the storage space, as she owns other properties and finds additional storage useful.
16. Ms. Muorah explains a tenant of the Respondent moved into the property immediately above the Premises in June 2020. She complains of anti-social behaviour emanating from the property above, consisting of the alleged supply and use of illegal drugs, disorderly behaviour, and noise nuisance. A closure order was made in respect of the upstairs property in November 2021.
17. Ms. Muorah returned to the Premises and installed CCTV at a cost of £350, with a monthly subscription fee of £40; she has provided supporting documentation for these costs.
18. However, she states that when the upstairs neighbour returned in January 2022, the disturbances worsened until a second closure order was issued in July 2023. The tenant did not return after the second closure order expired.

19. Ms. Muorah complains that the shed at the Premises is damp and unusable. She states, consequently she has forced her to use her home for storage, making her home cluttered, and consequently hazardous.
20. Ms. Muorah concludes her witness statement by referring to various complaints she has made directly to the Respondent.
21. The relevant complaints are detailed in paragraphs 22 to 24 below.

The Applicant's complaints

22. On 1 November 2021, Ms. Muorah obtained a conditional permit to park her car on the estate. She parked her car in what she believed was an allocated parking bay. However, she was issued with a parking ticket because the accumulation of leaves on the ground prevented her from seeing she was, in fact, parking on a double yellow line. Therefore, she says, the Respondent arranging leaf collection to commence in the last week of November is too late and resulted in her being issued a ticket. Ms. Muorah emailed the Respondent on 5th December 2021 regarding this complaint.
23. On 15th May 2022, Ms. Muorah emailed the Respondent complaining about various matters. The complaint relevant to these proceedings was that she had complained over one year earlier regarding water ingress causing damp and mould growth around the Premises, specifically in the shed. She objected to the Respondent informing her they would not investigate this until she identifies the pipe causing the leak.
24. The final complaint Ms. Muorah made prior to her Application to the Tribunal, and which relates to the issues in dispute in this case, is set out in her email sent to the Respondent on 26th February 2023. In her email, she complains about anti-social behaviour from the occupier of the flat immediately above the Premises. In particular, the litter thrown or dropped by him onto the Premises' forecourt, resulting in her incurring costs to clean the forecourt.

The claim for set off against the service charges

25. This is one of the documents Ms. Muorah has prepared in support of her application (see paragraph 3.1 above). In it, she complains the Respondent has committed breaches of the lease and/or caused her loss as follows:
 - 25.1 Breach of the covenant of quiet enjoyment by failing to ensure the upstairs neighbour, who was a council tenant, did not cause

significant nuisance and disturbance due to his drug-related activities, noise nuisance, and his anti-social behaviour.

- 25.2 Failure to maintain the common parts: In breach of paragraph 1 of Part I of the Sixth Schedule to the lease, the Respondent has failed to keep common areas such as the forecourt and gardens clean and free of debris left by her upstairs neighbour, who was a council tenant. Consequently, Ms. Muorah has incurred the cost of cleaning services.
 - 25.3 Damages for discomfort due to the inconvenience and potential safety risks resulting from the Respondent's failure to effectively address the upstairs neighbour's anti-social behaviour, which behaviour has meant Ms. Muorah is unable to reside at the Premises. She has also incurred additional expenses for security equipment and alternative accommodation.
 - 25.4 Mortgage interest: Ms. Muorah has incurred mortgage interest on the Premises, which she says was uninhabitable for significant periods due to the Respondent's tenant's anti-social behaviour.
 - 25.5 She seeks a set-off in respect of the loss of use and amenity resulting from the dampness in the outdoor shed, which she has been unable to use for storage. Ms. Muorah says the shed is not fit-for-purpose because she cannot store belongings there.
26. Ms. Muorah valued the set-off as follows:
- 26.1 Mortgage interest at approximately £500 per month x 3 years = £18,000;
 - 26.2 Security costs: Verisure CCTV installation at £337, plus £40 per month subscription; and
 - 26.3 Cleaning the forecourt due to rubbish from the Respondent's tenant was £100 per month.
27. In her bundle, Ms. Muorah has provided photographs of the upstairs neighbour's rubbish. The photographs show two images: the first shows around five pieces of scattered litter, with one item of litter being circled; the second image shows an open rubbish bag immediately above the Premises, outside the upstairs property.

THE LEGISLATION

28. The relevant legislation is set out in the Appendix.

THE ISSUES

29. The issue for determination is the reasonableness of certain items of the service charge expenditure for 2020/2021, 2021/2022, 2022/2023, and 2023/2024.
30. The Tribunal reached its decision after considering the parties submissions, and Ms Muorah's oral and written evidence, including documents referred to in that evidence, and taking into account its assessment of the evidence.
31. This determination does not refer to every matter raised by the parties, or every document the Tribunal reviewed or took into account in reaching its decision. However, this doesn't imply that any points raised, or documents not specifically mentioned, were disregarded. If a point or document was referred to in the evidence or submissions that was relevant to a specific issue, it was considered by the Tribunal.
32. Except that Ms Muorah does not challenge the costs of repairs and maintenance for 2023/2024, for each service charge year in dispute, she otherwise challenges the same items of expenditure on broadly the same grounds. Therefore, the Tribunal has provided its decision and reasons for the items disputed for 2020/2021, and the Tribunal's decisions for the subsequent periods are based on the same reasons.
33. Ms Muorah had originally challenged the buildings insurance premium on the grounds that the cost exceeded £100, and she was unaware whether there had been any section 20 consultation. Mr Tempest provided a letter from the Respondent dated 14th February 2019 dealing with consultation in respect of buildings insurance. In light of that letter, Ms Muorah accepted there had been consultation prior to acquiring her leasehold interest, she therefore withdrew her challenge in respect of the buildings insurance for 2020/2021 through to 2023/2024.
34. The issues are described below by quoting how Ms Muorah has described these in the Schedule.

THE DETERMINATION FOR SERVICE CHARGES FOR 2020/2021

The Tribunal's Decision on Repairs and Maintenance

35. **The issue:** "The Landlord has not fulfilled its repairing obligation in relation to damp shed which requires repointing"

36. **The decision:** We find the cost of repairs and maintenance in the sum of £9.55 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account the repairs and maintenance that have been carried out.

Reasons for the Tribunal's Decision

37. Ms Muorah recognises the Respondent has carried out repairs and maintenance works, and considers the costs charged for this is reasonable, and the work has been carried out to a reasonable standard. However, Ms. Muorah objects to paying anything for repairs and maintenance. She objects because she says that the necessary repairs to the Premises, namely the dampness affecting the shed, have not been carried out. As a result of this failure, she has used the Premises for storage, which has affected her enjoyment of the Premises. Therefore, she considers it unreasonable to pay any service charges when she has not benefited from the repairs and maintenance, and has been inconvenienced by the failure to carry out works to her shed.
38. On behalf of the Respondent, Mr. Tempest argues that Ms Muorah has adduced no expert evidence of disrepair affecting the shed nor the cause of any disrepair. He says that in any event, such a complaint may provide grounds for a breach of covenant claim, but does not allow Ms Muorah to set-off any losses against the service charges, particularly as the lease states service charges must be paid without deduction.
39. Mr. Tempest also argues the Respondent has the discretion to decide where to spend money. That the Respondent has chosen to spend money on other repairs and maintenance issues does not make that actual expenditure unreasonable. He points out that the shed is a non-habitable space, and it's reasonable for the Respondent to prioritise repairs and maintenance in respect of habitable parts of the Building.
40. In our judgment, Ms Muorah's challenge raises a jurisdictional issue. The Tribunal's jurisdiction is to determine whether the costs incurred or to be incurred are reasonable, taking into account whether the cost was reasonably incurred, and whether the works or services have been carried out to a reasonable standard (see section 19 in the Appendix). However, Ms. Muorah has confirmed that the cost and standard of the repairs and maintenance actually carried out by the Respondent was reasonable. It means that section 19 is not engaged. Accordingly, it would exceed our authority to make a finding that the costs actually incurred are not payable by reason of the Respondent's failure to carry out repairs to Ms. Muorah's shed.
41. We acknowledge that in some circumstances, the Tribunal may entertain a set-off when dealing with service charge disputes. For

instance, in *Continental Property Ventures Inc v White [2007] L.&T.R.* 4. In that case the Lands Tribunal held that where a landlord's delay in carrying out works resulted in additional costs being incurred to carry out more extensive repairs than might otherwise have been needed, the additional costs may not be payable. However, that is different to this case, because Ms. Muorah accepts that the costs charged for the repairs and maintenance actually done is reasonable. Therefore, by section 27A(4) the Tribunal does not have jurisdiction to determine an amount that is agreed.

The Tribunal's Decision on Caretaking

42. **The issue:** "The tenant has had to maintain its forecourt at a cost due to the debris and litter that the No. 15 consistently threw into the front and rear of the property. The landlord did unclog the guttering that was also affected but the cost of the tenants own caretaking remains outstanding"
43. **The decision:** We find the cost of caretaking amounting to £214.56 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account the caretaking services provided in those parts of the Property, the Building, the Common Parts and the Amenity Lands which the Respondent is obliged to provide caretaking services. We find the forecourt to the Premises is part of the Premises demised to Ms Muorah. We note Ms Muorah accepted that was the case.

Reasons for the Tribunal's Decision

44. Ms Muorah accepts that caretaking services are carried out in and around the estate. However, her objection to this service charge cost is that her former upstairs neighbour was responsible for various types of anti-social behaviour. This included litter from the upstairs property being left, thrown, or found in Ms. Muorah's forecourt. She accepts that the forecourt is part of the Premises demised under the lease, and that it is her responsibility to look after, clear, and clean the forecourt. However, because the litter was left or dropped by her upstairs neighbour, and due to the quantity of litter, she had to pay for cleaning services to remove it. So she considers her cleaning costs should be set off against the caretaking element of the service charge expenditure. Ms. Muorah also argues that the Respondent is vicariously liable for the rubbish left or thrown by her former upstairs neighbour because he was the Respondent's tenant.
45. Mr. Tempest argues it is the actions of Ms. Muorah's former neighbour that has resulted in her incurring the cost of cleaning her forecourt which she now seeks to set-off against service charges payable to the Respondent.

46. Mr. Tempest contends the Respondent is not vicariously liable for the actions of its tenant where the tenant has acted in breach of his tenancy agreement. Subject to Ms. Muorah indemnifying the Respondent, it may take action against a tenant who breaches their tenancy agreement, but that does not make the Respondent liable for that tenant's conduct.
47. Ms. Muorah does not challenge the reasonableness of the standard or cost of the caretaking services actually carried out. Her complaint is regarding cleaning that the Respondent's caretaker has not carried, but which we have found the Respondent was not obliged to carry out. Furthermore, Ms Muorah accepts that cleaning the forecourt is not part of the Respondent's obligations under the terms of her lease. Therefore, the reasonableness test at section 19 is not engaged in respect of this element of the service charge costs.
48. We also agree with Mr. Tempest that the Respondent is not vicariously liable for its former tenant's conduct. We have not been provided with any evidence to suggest the Respondent authorized or ratified the anti-social behaviour. Furthermore, in the Tribunal's experience, it is more likely than not that as a social landlord, the terms of the Respondent's tenancy agreement would expressly prohibit anti-social behaviour. Therefore, Ms. Muorah's former tenant would not be acting pursuant to his tenancy, which further supports our conclusion that the Respondent is not vicariously liable.

The Tribunal's Decision on Horticulture

49. **The issue:** "There was excessive foliage in which the tenant was penalised for being unable to identify Rd markings which she raised in Complaint No. 2567811"
50. **The decision:** We find the cost of horticulture or gardening of £99.99 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account all the gardening services actually provided. Therefore, we also find that the cost is reasonable taking into account the duration and frequency of leaf collection.

Reasons for the Tribunal's Decision

51. Ms. Muorah accepted that the cost for gardening or horticulture for the number of visits actually carried out per year is reasonable and acknowledges that gardening is carried out across the year, including general garden and grounds maintenance and pruning. Although she acknowledges that the leaves are cleared approximately every two weeks from November to December, Ms Muorah considers the service unreasonable or inadequate because leaf collection begins in November each year. Ms Muorah states that is too late, and by November all the parking bays and road markings are already covered with leaves.

52. Mr. Tempest argued the Respondent has discretion to determine when leaf collection should commence, and it reasonably exercised its discretion in the arrangements made. It was Ms. Muorah's evidence that leaves were collected around every 2 to 3 weeks in November and December of each year. Mr. Tempest continues, that the stated frequency is reasonable, and the standard required is one of reasonableness and not perfection.
53. In our judgment, and based on Ms. Muorah's evidence that leaves were collected around every two weeks in November and December each year, we consider this frequency reasonable. We take into account that during autumn, irrespective of how frequently leaves are collected, there are likely to be some leaves on the ground in between collections. We had no photographs showing an unreasonable accumulation of leaves. While we accept Ms. Muorah's evidence that she received a parking ticket because leaves covered the double yellow no-parking lines, on its own, that is not evidence that the frequency of leaf collection was unreasonable.
54. We note that Ms Muorah has no complaint regarding the standard of the other gardening services provided by the Respondent, and included within this element of the service charge costs. Therefore, in the circumstances, we find the cost of gardening or horticulture, is reasonable.

THE DETERMINATION FOR SERVICE CHARGES FOR 2021/2022

The Tribunal's Decision on Repairs and Maintenance

55. **The issue:** "The main justification for the significant increase to the repairs delete last word delete last word appears to be work to a single demise which reading the lease may well be a common area. If this is the case why hasn't the landlord responded to the tenants ongoing damp issues"
56. **The decision:** We find the cost of repairs and maintenance in the sum of £226.57 was reasonably incurred, and no evidence has been adduced by Ms Muorah to show the cost is unreasonable taking into account the repairs and maintenance that have been carried out.

Reasons for the Tribunal's Decision

57. Ms Muorah's argument is essentially the same as for the 2020/2021 repairs and maintenance costs, being she objects to paying this element of the service charges when the repairs allegedly required to her shed remain outstanding. Mr Tempest's response was the same as set out at paragraphs 38 to 39 above, and the Tribunal's reasons are the same as set out at paragraph 40 to 41 above. We therefore find that the cost claimed for repairs and maintenance for 2021/2022 is reasonable.

The Tribunal's Decision on Caretaking

58. **The issue:** "Same as above" (Ms Muorah provided no other commentary)
59. **The decision:** We find the cost of caretaking amounting to £220.22 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account the caretaking services provided in those parts of the Property, the Building, the Common Parts and the Amenity Lands which the Respondent is obliged to provide caretaking services.

Reasons for the Tribunal's Decision

60. Ms Muorah's arguments are the same as in her previous challenge regarding the 2020/2021 caretaking costs. Namely, she objects to paying for caretaking services when she has had to incur the cost of cleaning her forecourt as a result of the rubbish left or dropped by her former upstairs neighbour. Mr Tempest's response was the same as set out at paragraphs 45 to 46 above, and the Tribunal's reasons are the same as set out at paragraph 47 to 48 above. We therefore find that the cost claimed for caretaking for 2021/2022 is reasonable.

The Tribunal's Decision on Horticulture

61. **The issue:** "Same as above"
62. **The decision:** We find the cost of horticulture or gardening of £65.42 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account all the gardening services actually provided. Therefore, we also find that the cost is reasonable taking into account the duration and frequency of leaf collection.

Reasons for the Tribunal's Decision

63. Ms Muorah's position is that this is the same as her previous challenge on horticultural costs as argued in respect of 2020/2021 service charges. Namely, claims leaf collection approximately every 2 weeks in November and December is unreasonable, and it should begin earlier to avoid an unreasonable accumulation of leaves. Mr Tempest's response was the same as set out at paragraph 52 above, and the Tribunal's reasons are the same as set out at paragraphs 53 to 54 above. We therefore find that the cost claimed for horticultural costs for 2021/2022 is reasonable.

THE DETERMINATION FOR SERVICE CHARGES FOR 2022/2023

The Tribunal's Decision on Repairs and Maintenance

64. **The issue:** "Why the tenants own pointing and damp issues remain"

65. **The decision:** We find the cost of repairs and maintenance in the sum of £95 was reasonably incurred, and based on Ms Muorah’s evidence, we find the cost is reasonable taking into account the repairs and maintenance that have been carried out.

Reasons for the Tribunal’s Decision

66. Ms Muorah’s argument is essentially the same as for the 2020/2021 repairs and maintenance costs. Mr Tempest’s response was the same as set out at paragraphs 38 to 39 above, and the Tribunal’s reasons are the same as set out at paragraphs 40 to 41 above. We therefore find that the cost claimed for repairs and maintenance for 2022/2023 is reasonable.

The Tribunal’s Decision on Caretaking

67. **The issue:** “Same as above”
68. **The decision:** We find the cost of caretaking sum amounting to £257.18 was reasonably incurred, and based on Ms Muorah’s evidence, we find the cost is reasonable taking into account the caretaking services provided in those parts of the Property, the Building, the Common Parts and the Amenity Lands which the Respondent is obliged to provide caretaking services.

Reasons for the Tribunal’s Decision

69. Ms Muorah’s arguments are the same as in her previous challenge regarding the 2020/2021 caretaking costs. Mr Tempest’s response was the same as set out at paragraphs 45 to 46 above, and the Tribunal’s reasons are the same as set out at paragraph 47 to 48 above. We therefore find that the cost claimed for caretaking for 2022/2023 is reasonable.

The Tribunal’s Decision on Horticulture

70. **The issue:** “Same as above”
71. **The decision:** We find the cost of horticulture or gardening of £88.99 was reasonably incurred, and based on Ms Muorah’s evidence, we find the cost is reasonable taking into account all the gardening services actually provided. Therefore, we also find that the cost is reasonable taking into account the duration and frequency of leaf collection.

Reasons for the Tribunal’s Decision

72. Ms Muorah’s position is that this is the same as her previous challenge on horticultural costs as argued in respect of 2020/2021 service charges. Mr Tempest’s response was the same as set out at paragraph 52 above, and the Tribunal’s reasons are the same as set out at paragraphs 53 to 54 above. We therefore find that the cost claimed for horticultural costs for 2022/2023 is reasonable.

THE DETERMINATION FOR SERVICE CHARGES FOR 2023/2024

The Tribunal's Decision on Caretaking

73. **The issue:** "Same as above"
74. **The decision:** We find the cost of caretaking amounting to £304.07 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account the caretaking services provided in those parts of the Property, the Building, the Common Parts and the Amenity Lands which the Respondent is obliged to provide caretaking services.

Reasons for the Tribunal's Decision

75. Ms Muorah's arguments are the same as in her previous challenge regarding the 2020/2021 caretaking costs. Mr Tempest's response was the same as set out at paragraphs 45 to 46 above, and the Tribunal's reasons are the same as set out at paragraphs 47 to 48 above. We therefore find that the cost claimed for caretaking for 2023/2024 is reasonable.

The Tribunal's Decision on Horticulture

76. **The issue:** "Same as above"
77. **The decision:** We find the cost of horticulture or gardening of £81.89 was reasonably incurred, and based on Ms Muorah's evidence, we find the cost is reasonable taking into account all the gardening services actually provided. Therefore, we also find that the cost is reasonable taking into account the duration and frequency of leaf collection.

Reasons for the Tribunal's Decision

78. Ms Muorah's position is that this is the same as her previous challenge on horticultural costs as argued in respect of 2020/2021 service charges. Mr Tempest's response was the same as set out at paragraph 52 above, and the Tribunal's reasons are the same as set out at paragraphs 53 to 54 above. We therefore find that the cost claimed for horticulture for 2023/2024 is reasonable.

THE APPLICATIONS FOR COSTS AND REFUND OF FEES

79. The Tribunal refuses the Applicant's request for orders under section 20C of the 1985 Act and paragraph 5A of Schedule 11 to the 2002 Act.
80. The Tribunal refuses the Applicant's request that the Respondent reimburses the tribunal fees paid by her

Reasons for the Tribunal's Decision

81. The Respondent has successfully defended the Application. Therefore, we do not consider it to be just and equitable to make the orders the Applicant requests.

Name: Judge Tueje

Date: 3rd March 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).

APPENDIX

Extracts from the Landlord and Tenant Act 1985

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.*

Section 19 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.*

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.
- (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,
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- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.