



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

**Tribunal Case Reference** : LON/00AE/LSC/2022/0183

**Property** : Flat 6, Bramerton, 213-215 Willesden Lane,  
London NW6 7YT

**Applicant** : Bramerton Management Co Ltd

**Representative** : Leasehold Debt Recovery Ltd

**Respondents** : Tessa Andrea Chowdhury  
Nazim Uddin Chowdhury

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

**Tribunal** : Judge Nicol  
Mr A Parkinson MRICS  
Ms F McLeod MCIEH

**Date and venue of Hearing** : 13<sup>th</sup> February 2025  
10 Alfred Place, London WC1E 7LR

**Date of Decision** : 14<sup>th</sup> February 2025

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**DECISION**

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**The service charges demanded by the Applicant from the Respondents in the sum of £6,505.88 are reasonable and payable, as detailed below.**

Relevant legal provisions are set out in the Appendix to this decision.

**Reasons**

1. The Applicant is the lessee-owned freeholder of the block of flats known as Bramerton at 213-215 Willesden Lane, London NW6 7YT. The Respondents are the lessees of Flat 6, although they are not members of the Applicant company.

2. On 24<sup>th</sup> June 2021, the Applicant issued proceedings in the county court (claim no: H32YJ039) against the Respondents for alleged ground rent and service charge arrears. On 26<sup>th</sup> July 2021, the First Respondent returned the county court form N9B claiming she had a defence. By order made on 20<sup>th</sup> May 2022, Deputy District Judge Carr directed the First Respondent to file a defence and counterclaim (for which a fee had to be paid) and transferred the claim and counterclaim to the Tribunal.
3. On 23<sup>rd</sup> November 2023 Judge Martynski ordered that the Tribunal would only deal with the issue of reasonableness and payability of the service charges and that any remaining issues should be transferred back to and dealt with in the County Court.
4. The case was listed for hearing on 28<sup>th</sup> March 2024. The First Respondent persuaded the Tribunal that she had not received anything from the Tribunal and so fresh directions were issued instead.
5. The Applicant later applied for the Respondents to be barred from participation in the proceedings for failure to provide their case in accordance with the directions but, after the First Respondent did eventually provide her case, the Tribunal notified the parties by email dated 21<sup>st</sup> May 2024 that the application was dismissed.
6. The matter was heard on 13<sup>th</sup> February 2025. The attendees were:
  - Mr Nicholas Warren of Leasehold Debt Recovery, representing the Applicant; and
  - The First Respondent, accompanied by her witness, Mr Clifford Ryan.
7. The documents before the Tribunal consisted of a bundle of 412 pages, compiled by the Applicant.

### *Demands*

8. The parties have been in litigation before about unpaid service charges. The Second Respondent, who is the First Respondent's ex-husband, has never participated other than to satisfy one judgment sum in response to enforcement proceedings.
9. It is a constant feature of all the litigation that the First Respondent claims not to have received demands for payment when she should have. Such assertions did not avoid her liability according to decisions of the First Tier Tribunal dated 26<sup>th</sup> September 2012 (ref: LON/00AE/LSC/2012/0320) and the Upper Tribunal dated 24<sup>th</sup> May 2014 ([2014] UKUT 0260 (LC)).
10. In this case, the Applicant served two demands, dated 10<sup>th</sup> September 2019 and 16<sup>th</sup> February 2021, seeking payment of £6,505.88 for the period from the final quarter of 2018 until the March 2021 quarter. The lease provides for quarterly demands but the Applicant had spent some time out of communication with the Respondents during previous county court litigation in order to preserve any potential right to forfeit

the lease. When the Applicant obtained judgment against the Second Respondent and he settled the entire debt, those proceedings came to an end and the Applicant reverted to seeking payment of the current debt.

11. The First Respondent asserted that the judgment against the Second Respondent had been set aside but it remains the fact that the sum in dispute in those proceedings has been settled and the circumstances explain why the Applicant departed from the procedure laid down in the lease. The Upper Tribunal explained in their aforementioned judgment that demands are valid under the lease even if they are late. The First Respondent had complained in her statement of case that she only received the demands after the proceedings had been issued in the county court but, when pressed by the Tribunal, she accepted that the demands were valid and, subject to the matters discussed below, she was liable for the service charges.

### Leak in 2018

12. In early 2018, there was a leak to the communal heating system at Bramerton. The remedy required access to the Respondents' flat and the pipes running under the floorboards. The First Respondent was accommodated elsewhere for a short period at the expense of the insurers. While the Applicant's contractors were in the flat, they discovered that the electrical fuse box was damaged. The First Respondent claims that the damage was caused by the Applicant's contractors whereas the Applicant claims that they found it that way.
13. In any event, the Applicant's electrician replaced the fuse box. The First Respondent claims that it was left in an uncompleted condition. The Applicant claims that the work was completed but certification could not be carried out until the First Respondent dealt with an electrical cable to the shower. The First Respondent claims in turn that the Applicant agreed to deal with the electrical cable themselves but have not done so despite her paying their invoice for it. She was unable to produce the invoice. The contemporary correspondence in the bundle appeared to support the Applicant's version of events.
14. In any event, the Tribunal explained to the First Respondent that this did not constitute a challenge to the service charges but a claim which she was free to pursue in the county court, not the Tribunal. The court had directed that a counterclaim should be transferred to the Tribunal, as referred to above, but that was dependent on the First Respondent filing and serving a fully-pleaded Defence and Counterclaim (superseding the earlier Defence and Counterclaim in Form N9B). The First Respondent was surprised to be informed that there appeared to be no such document but she was unable to produce it.

### Boiler Charges

15. The Respondents had been directed to complete a Schedule listing the service charges in dispute. The First Respondent did so for 3 out of the 4 years. In particular, she challenged the costs listed in the annual

accounts for boiler fuel/gas, boiler repairs and maintenance and boiler replacement.

16. However, the Schedule only directed the reader to look at the First Respondent's statement of case. That statement contained no mention of the issues in the Schedule. When this was put to the First Respondent, she said that there was an issue with heating at her flat which the Applicant had failed to address for some years now. There were 3 problems with this:
  - a. The Tribunal pointed out to the First Respondent that the issue of a lack of heating had not been mentioned in her statement and it would be unfair to allow her to bring it up now without any advance warning to the Applicant. Again, the First Respondent was surprised to hear that the issue was not mentioned in her statement but she took some time to re-familiarise herself with it and could not locate any passage on which she could rely. She alleged that she was in discussion with the Applicant about the lack of heating and queried whether that meant she could raise it now but the Tribunal pointed out that the Applicant would need to know that she was intending to raise it at the hearing.
  - b. The papers before the Tribunal contained no evidence relating to the issue.
  - c. As with the events following the leak in 2018, if the First Respondent's claim was correct, she may have a remedy but it would be in the county court, not in the Tribunal.

#### Managing Agents' Fee

17. The First Respondent challenged the managing agent's fees on the basis that they had not dealt properly with the lack of heating. The same points as those set out above apply equally here.
18. In addition, the First Respondent claimed both that the Applicant's agents would not speak to her and that she was engaged in ping-pong with them where they would say one thing and then later resile from it. The Tribunal had no evidence in front of it that the agents' communication with the First Respondent was deficient in any way.

#### Flat Rental

19. The Applicant used to employ a caretaker/porter and provided a flat within the block for their use. The costs of the caretaker/porter included a sum for renting the flat.
20. The Applicant ceased employing a caretaker/porter in 2018. The caretaker/porter's flat was sold on 10<sup>th</sup> May 2021. The First Respondent explained at the hearing that she had understood that the costs of the caretaker/porter would cease appearing in the annual accounts earlier than they did and queried the sum for flat rental in the 2020 accounts.
21. Unfortunately, the First Respondent's statement again did not explain her objection to the flat rental figure. Mr Warren had not made any

enquiries into why the flat rental continued to appear after the caretaker/porter had ceased employment. He had produced the relevant invoices but they contained nothing which would explain the situation. It would be unfair to determine that the charges were not payable when the First Respondent had had more than enough time to set out her case earlier but had not done so.

Costs

22. The First Respondent said that some administration charges had been levied for the Applicant's costs in pursuing her service charge debt. However, the claim here did not include any such administration charges.
23. There was no other application in relation to costs.

**Name:** Judge Nicol

**Date:** 14<sup>th</sup> February 2025

## **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.