FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BG/LSC/2024/0271**
Property	**:**	**Flat 14 Fairmont House, 60 Wellington Way, Wellington Place, Bow, London, E3 4XG**
Applicant	**:**	**Tahahat Ahmed**
Representative	**:**	**Ms Kumar-Jacob of counsel (instructed under direct access)**
Respondent	**:**	**Wellington Place Management Company Limited**
Representative	**:**	**JB Leitch (Mr Alford of counsel appearing at the hearing)**
Type of application	**:**	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985 and for the determination of liability to pay administration charges under Schedule 11 to the Commonhold and Leasehold Reform Act 2002**
Tribunal members	**:**	**Mr O Dowty MRICS** **Mr S Mason FRICS** **Ms M Bygrave MRICS**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**27 May 2025**

DECISION

Decisions of the tribunal

(1) The costs of the leak detection survey (to a total of £900 demanded in an invoice dated 10 November 2023 at page 192 of the bundle) are not payable by the applicant as an administration charge. However, the applicant's usual proportion of those costs would be payable as a service charge if they were properly demanded as such.

(2) We lack jurisdiction under Paragraph 5a to Schedule 11 of the CLRA 2002 to extinguish the additional costs totalling £991 in the letter dated 13 March 2024. We might have jurisdiction under Paragraph 5 of that Schedule, however the amounts would need first to be correctly demanded – which they have not been.

(3) The late payment fee of £90 demanded in the invoice of 16 February 2024 at page 198 of the bundle is not payable as an administration charge.

(4) The tribunal **does not** make any order under section 20C of the Landlord and Tenant Act 1985, not under Paragraph 5a of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('CLRA 2002').

(5) Accordingly, the legal fees of £288 demanded in the invoice on 25 November 2024 at page 206 of the bundle are payable.

The application

1. The Applicant originally sought a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("CLRA 2002") as to the amount of service charges and administration charges payable by the Applicant in respect of the service charge years 2020 2024. It is worth noting that some of the challenged administration charges were listed as being service charges in the initial application, but this is of no import as the Tribunal's application forms are not statutory and no issue has been raised regarding this by the respondents.

2. The applicant was unrepresented at the time they made their application, and indeed until shortly before the hearing itself (Ms Kumar-Jacob having been instructed at short notice). The principle issue in dispute in the applicant's application was not the administration charges we were left to determine at the hearing – but in fact the service charge items in relation to the roof works and building insurance at the property over a number of years. These issues were withdrawn at short notice before the hearing.

The hearing

3. We held a face to face hearing in this matter on 10 March 2025. The applicant attended the hearing, and was represented at it by Ms Kumar-Jacob of counsel. The respondent was represented by Mr Alford of counsel. Ms Rani Sahotra, of the respondent's managing agents JPW Real Estate, also appeared and gave oral evidence at the hearing.

4. Following the withdrawal of the main service charge issues by the applicant at short notice, the hearing was a little unusual. This was not because of the conduct of the parties, nor the way the hearing was conducted. Instead, we had a large amount of time available to us to examine in close detail the intricate details of some pretty trivial matters; which otherwise might have fallen not to be examined anywhere near as closely with a view to proportionality.

5. It is worth noting that the applicant provided additional material at the start of the hearing – consisting of a video taken in the subject flat's bathroom, email chains and a letter from JB Leitch dated 13 March 2024 (relevant to the 'Letter Before Action' costs issues below). We allowed the respondent time to consider that material, and they indicated that whilst no objection was raised to the emails and the letter, they did not agree to the video being admitted. The managing agent had been sent the video before, but not as part of the proceedings and this had therefore meant it had not been considered properly. We considered the matter, and decided we would admit the video, and apply what weight to it we saw fit as an expert Tribunal.

The background

6. The property which is the subject of this application is a 2 bedroom, top floor flat in a purpose built block of flats. The property is located in the Bow area of East London, close to Bow Road underground station.

7. 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.

8. The applicant holds a long lease of the property which requires the respondent management company to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

The issues

9. Following the applicant's limiting of their case, we were left with five issues to determine.

10. First, there had been damage to the ceiling of the flat directly below the subject, which was apparently water ingress damage (though the applicant appeared to suggest it might not have been in their skeleton argument). The respondent believed this to be a problem caused by an issue in the subject flat, but the applicant had disputed this, instead saying it was a problem with the wider building. The respondent had an investigation carried out by a third party specialist, the report from which they averred (about which there was some dispute) said the cause came from the subject flat. The costs of that investigation have been claimed as an administration charge from the applicant by the respondent. Was it payable under the lease? In the alternative, was it capable of being a service charge item? And in any event were the costs reasonable?

11. Second, the respondent's solicitors JB Leitch had sent a letter to the applicant dated 13 March 2024 demanding payment of outstanding costs, but also a total of £991 in legal costs and administration fees which had not been separately demanded. Did we have jurisdiction in relation to those charges as administration charges, and if so were they payable by the applicant?

12. Third, the respondent had charged the applicant a £90 late payment charge – but was that provided for in the lease?

13. Fourth, should we grant orders under Section 20C and Schedule 5a to paragraph 11 of the Commonhold and Leasehold Reform Act to limit the recovery of the respondent's costs through the service charge or as an administration charge (including as regards £288 they had already been charged).

14. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

The Leak Investigations

15. An administration charge of £900 was levied against the applicant by the respondent (in an invoice dated 10 November 2023 at page 192 of the bundle). This charge was in relation to the costs of an investigation into water ingress causing damage to the flat below. The leak was reported to the respondent by the leaseholder of the flat below, and following extensive correspondence between the parties, to say nothing of any other, they instructed a contractor – Leak Detection Specialists Limited. Leak Detection Specialists sent a 'Technician' – Cameron Harris – to visit the property on 24 July 2023, and subsequently provided a report of their findings.

16. The applicant's case concerning this item was two-fold. First, and most simply, the lease did not provide for the costs of this investigation, and so the amount charged was not payable. For this to be recoverable as a service charge, it would need to be provided for by clauses 3.3 or 3.5 of the lease (the respondent's position being that it was) – but the applicant said that it wasn't.

17. Second, and even were the costs to be chargeable under the lease, the applicant said that (if there were a leak) it didn't come from his flat. Instead, there was an issue with the main roof, and the water had simply found its way to the flat below's bathroom ceiling. The applicant provided witness statements from their tenants at that time saying there had been no repairs carried out to repair a leak, and that they had not seen any leaks. Those witness statements were pretty rudimentary, and in identical terms, having been written by the applicant himself and given to the tenants for signature.

18. The applicant averred that the respondent's own report indicated that whatever the cause had been it had been repaired, and therefore (no repairs having been carried out in the subject property) the cause must have been elsewhere. The applicant also provided a video taken by their tenant which they said showed there was no leak. The applicant initially said that video had been taken in September 2023, but when we observed that an email dated 22 July 2022 referred to a video that submission changed, and we were told it was the video referred to in that email. We asked why we had been told that video was taken in September 2023, and were told it was because Mr Ahmed was fasting for Ramadan and had mis-remembered.

19. For their part, the respondent said that they had been alerted that there was damage to the ceiling of the flat below. They had raised this with the applicant, but he had insisted the problem lay in the common parts. We were told in the oral evidence of Ms Rani Sahota, for which we were grateful, that the respondent had needed to investigate the cause and if it was a building issue then it would need to be repaired by the respondent under the service charge. That report, found – the respondent said – that the cause was from the flat above.

The tribunal's decision

20. We will begin by making our findings of fact concerning the alleged water ingress damage to the flat below. Whilst they are in fact rendered otiose concerning this issue in and of itself due to our findings regarding the provisions of the lease, they are important findings to record.

21. On the balance of the evidence presented to us, we find that the damage to the flat below was caused by water ingress damage. There had been some suggestion in the applicant's skeleton argument that the respondent's investigation report spoke only of "elevated moisture

readings", but we have seen the photographs for ourselves in that report and we are content – as an expert Tribunal – that the damage shown was consistent with water ingress damage.

22. We then need to make a finding as to where the water which caused that water ingress damage came from. On the balance of the evidence we have available we find that the water ingress damage was caused by some form of issue in the subject property to this application.

23. Firstly, we note that the water ingress damage to the flat below was in the bathroom area, directly underneath (we were told) the bathroom for the subject flat. At first sight this seems entirely consistent with the cause being an issue in the subject flat – in a part of that flat in which water is used in large quantities – and the respondent has provided an independent report which supports this finding. There was some dispute as to how one should interpret the findings of that report, specifically those at page 57 of the bundle, particularly in light of the sentence:

We suggest if required a revisit when access to flat flat [sic] 14 can be gained to investigate the cause of an intermittent leak into flat 10.

24. We note that sentence, and the submissions concerning its meaning for which we were grateful, but to us (in combination with the other content of the report as well) this means the report does find the "intermittent leak" is caused by the flat above, but that the 'technician' might ("if required") revisit to ascertain the exact cause. Even if it were weaker than this, on our reading of the report as a whole and its conclusions, it is at least very likely that the leak is coming from the subject flat.

25. That may not be enough to be 'sure' that the water ingress damage comes from the flat above, but they didn't need to be 'sure' and nor do we either. The appropriate standard of proof in the matter is the simple, civil, 'balance of probabilities' – and we find that it is clearly more likely than not that the water ingress damage to the flat below was caused by some issue in the flat above.

26. We are aware of the content of the witness statements the applicant provided, and did have regard to them, but those witnesses did not attend the hearing and both the respondent and we were therefore unable to test their evidence, nor ask them questions arising out of – at best – spartan witness statements. Those witness statements seemed to us to be quite closely worded to talk only about plumbing issues (whether by design or not) and had not even been written by, or in conjunction with, the witnesses. Instead, Mr Ahmed had asked them to sign them if they were happy with the content.

27. When we discussed why the witnesses had not attended at the hearing, counsel for the applicant said that Mr Ahmed (who had been conducting

this case without legal assistance until very recently) didn't appreciate the importance of witnesses attending in person, and wasn't aware witnesses could give evidence from abroad – as apparently would have been necessary - but the Tribunal's directions in this matter are brief, and devote considerable attention to the latter possibility. For all of those reasons, we therefore considered that we could not apply much weight to the witness statements of the tenants.

28. We also had regard to the video provided by the tenant, but it didn't seem to us to be particularly helpful. We were provided with two, very different, dates as to when it was recorded (though it does seem more likely to have been taken in 2022 from what we have been provided) – and the person who recorded it, Mr Samuel Smith, was not even present at the hearing. In any case, it was hard for us to see what we were meant to take from that video – it only showed the area under the bath, and it didn't show it very well as we could on the main only see the part nearest where the video was being taken from. Nevertheless, the commentary in that video itself refers to there being a "big-ish hole", apparently in the floor underneath the main outlet for the bath. We cannot see that hole properly from the video, but if there is one it would be entirely possible for water to simply be dripping from the bath outlet and through such a hole, without much obvious impact in the subject flat at all. The video does not, therefore, demonstrate the point the applicant wishes it to make very well.

29. Were Mr Smith to have attended the hearing, we also would've liked to ask why, in his video, he didn't point the camera so that one could see the other side of the under-bath area. There might very well have been a good explanation for that, but we were unable to ask him as he didn't attend the hearing to provide evidence.

30. In arriving at our finding that the cause came from the subject flat, we are also cognisant of a topic that was the subject of considerable dispute at the hearing regarding whether the applicant had frustrated the respondent's gaining access to the property (which he is required to provide under the terms of the lease). The applicant averred at one point that access had been allowed, though this was a slightly strange submission as – factually – no such access was achieved. Instead, the applicant insisted that he tried to provide access, but that access could only be provided by his wife (despite the property being tenanted).

31. The applicant had provided email chains concerning this matter as a handout at the start of the hearing, which did not assist him in relation to this point at least. They showed that access had been arranged on two occasions, but it was then on both occasions apparently cancelled - including (as shown in an email dated 23 July 2023 at page 173.7 of one of the applicant's handouts) at 11.08pm on a Sunday evening preceding arranged access the following morning at 9am, as the applicant's wife

had "come down with the flu". The applicant also sought to impose arbitrary time limits of his own devising on the landlord's workmen.

32. We find as a fact that the applicant did not allow the respondent reasonable access to carry out their investigations, and draw adverse inferences from that in relation to why the applicant wished to frustrate access for valid and reasonable investigatory purposes to a flat he did not even occupy at the time.

33. Having found that the water ingress damage came from the subject flat, we must consider whether the applicant is liable under the terms of the lease to pay for the costs of the investigation report as an administration charge.

34. The respondent averred that there were two clauses of the lease engaged – clauses 3.3 and 3.5. Clause 3.3 provides that the lessor covenants to:

(3) Repair maintain renew uphold and keep the demised premises (except such part thereof as are referred to in Part 1 of the Fifth Schedule hereto as being the responsibility of the Management Company) (including the surface of any balcony patio or terrace comprised therein) and all windows glass doors (including the entrance door to the demised premises) locks fastenings hinges sanitary water gas electrical and central heating apparatus walls ceilings drains pipes wires and cables therein and all fixtures and addition therein in good and substantial repair and condition save damage by any of the risks against which the Management Company covenants to maintain insurance except insofar as such insurance is vitiated by the act or default of the Lessee his servants agents licensees visitors or sub-lessees

35. It appears to us that the cause of the water ingress damage would be covered by clause 3.3, but there is clearly no specific mechanism in clause 3.3 itself for an administration charge to be raised in relation to the tenant's failure to abide by clauses 3.3; and nor is there apparently a separate provision in the lease for such a charge. It was suggested at one point that clause 3.2 might provide such a mechanism (which refers to the occupier agreeing to pay all "…impositions and outgoings which may now or at any time be assessed charged or imposed upon the demised premises…"), but we don't agree that clause 3.2 gives the respondent a free standing right to impose charges and other impositions on the premises of their own.

36. Clause 3.5 provides that the tenant covenants to (with our underlining for later reference):

Permit the Lessor and the Management Company and their duly authorised surveyors or agents with or without workmen and others upon giving three days previous notice in writing at all reasonable

times (but at any time without notice in case of emergency) to enter into and upon the demised premises or any part thereof for any of the purposes referred to in the Third Schedule hereto and also for the purpose of viewing and examining the state and condition thereof and the Lessee will make good all defects decays and wants of repair of which notice in writing shall be given by the Lessor or the Management Company to the Lessee and for which the Lessee may be liable hereunder within two months after the giving of such notice and if the Lessee shall at any time make default in the performance of any of the repairing and painting covenants herein contained it shall be lawful (but not obligatory) for the Lessor or the Management Company at all reasonable times during the said terms with or without workmen and others to enter upon the demised premises and repair and/or paint at the expense of the Lessee in accordance with the covenants and conditions herein contained and the cost thereof shall be payable by the Lessee to the Lessor or the Management Company (as the case may be) on demand together with interest thereon at the rate of Four per sent per annum above the base lending rate of Midland Bank plc (or such rate as may be substituted therefor) from time to time.

37. The respondent's submission concerning this clause was that the clause provided for the access to the property to carry out the investigations. That clause then goes on, in the section underlined by us above, to refer to repairs and payment of costs. The respondent did not intend to carry out works, but instead averred that the clause must be read as a whole – and that, reading it as a whole, the "only sensible way of reading" the clause permitted the costs of inspection to be charged to the applicant.

38. There is not much we can usefully say on this point, as it comes down simply to the reading of that clause and what would be understood to be its meaning, but we don't agree. We think that the underlined section provides that the respondent can enter the premises to carry out repairs and/or paint, in certain circumstances caused by failure on the part of the applicant, and can recover their costs of so doing from the applicant. We don't think the reference to costs in that underlined section applies more broadly to every element of that clause such that the respondent can recover their costs of simply entering onto the property with no intention to paint nor repair.

39. It is worth noting for completeness that, even if it did, one would then have to consider whether clause 3.5 applied in the subject instance as no access was actually effected – and instead the flat below was the only one accessed. Whilst at first sight insurmountable as an issue, Mr Alford's rather novel submissions on this point were, essentially, that the respondent thought they needed to access the subject flat when they arranged the inspection, that entering the subject flat was the focus and that the access to the flat below was to some extent incidental (but as it happens, sufficient). Those are interesting submissions which we record, but they are not relevant to our decision as we do not think clause 3.5 is engaged in any event.

40. Accordingly, we find that the costs of the leak inspection are not chargeable as an administration charge under either clause 3.3 or 3.5.

41. The respondent's secondary position regarding the leak detection costs was more straightforward. There were various clauses under the lease which allowed for this cost to be collected under the service charge, and it therefore could be. In writing our reasons for this issue we are keenly aware that it is a dispute, in this instance, about what the respondent estimated to be less than £7. The applicant resisted its inclusion in the service charge, primarily on the grounds of reasonability (being a total of £900). We considered the submissions of both parties, and agree that this could be recovered as a service charge item – were it correctly demanded (which at present it has not been).

42. We were provided evidence at the hearing by Ms Rani Sahota of the respondent's managing agents JPW Real Estate, who said that the survey was carried out so that they could establish if the water ingress damage to the flat below was indeed caused by the subject property or the wider building. If it was the latter, the respondent would need to carry out repairs through the service charge. We note that this does clash slightly with the correspondence of one of Ms Sahota's colleagues Ms Adriana Osmani, who was dealing with this matter at the time and seemed to indicate she considered this an inter-flat matter (and that she would need the applicant's agreement to pay for the cost of the survey if it did find the issue was caused by the subject property) - but we accepted the evidence of Ms Sahota at the hearing, and this is clearly an investigation that would need to be done, regardless of any inter-flat issues, to establish the cause of the damage to the flat below the subject given the applicant's staunch refusal to accept it was caused by an issue with his flat.

43. As regards the reasonability of the charge, the applicant has provided no alternative quotes for the work carried out and instead relies on the cost's apparent unreasonability at face value. We are an expert Tribunal and we disagree that a cost of £900 for this work is on its face unreasonable. Accordingly, on the evidence available to us, there would appear to be no issue with the landlord claiming the applicant's usual proportion of this cost as a service charge item provided it were demanded correctly.

44. There was, at the hearing, an interesting submission from the respondent that – the lease providing the landlord the power to vary the apportionment of the service charge – the respondent might be able to vary that apportionment to 100% for this particular item. This was again a novel submission but one that we disagree with and do not think stands up to much scrutiny. The apportionment provisions in the lease are intended to be a way of spreading costs fairly around the building, not of charging one leaseholder on their own. It was the respondent's own evidence that the survey was needed as part of their general repairing

obligations (to see if 'service charge' works needed to be carried out), and if that is the case then it is a general service charge item.

The 'Letter Before Action' Costs Totalling £991

45. This item relates to charges specified in a letter from the respondent's solicitors JB Leitch to the applicant dated 13 March 2024 threatening legal action at court, and demanding payment of outstanding costs – but the itemisation of those costs also included a total of £991 in legal costs and administration fees which had not been separately demanded.

46. Those costs were legal costs of £591 (apparently relating to JB Leitch's fees), as well as further legal costs of £120 and an administration charge of £200 both said to be due to costs incurred by Freehold Managers PLC.

47. It was the respondent's own position that those 'new' charges had never been properly demanded – and therefore that we had no jurisdiction in relation to them.

48. The applicant averred that that letter counted as a demand for administration charges, being as it was a demand that the money was paid, and therefore we should decide the amounts weren't payable using our powers under Section 5a of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ('CLRA 2002'). Those powers were said to be wide, and there would be no point to them if we didn't have jurisdiction over costs stated to be administration costs.

49. There was a lot of discussion of this matter at the hearing, and particularly concerning our jurisdiction. Frankly, it was the sort of level of discussion that would never usually be possible because – for the reasons we alluded to at the start of this decision – this level of debate around such a minor issue would rarely be considered proportionate were it not for the fact a large part of the applicant's case had fallen away on the morning of the hearing itself which left us the luxury of time.

50. Whilst noting the submissions of the applicant, we do not think we have jurisdiction in relation to these charges under Paragraph 5A of Schedule 11 to the CLRA 2002, which it is worth reproducing over-page:

5A (1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.

(2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.

(3) In this paragraph—

(a) "litigation costs" means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and

(b) "the relevant court or tribunal" means the court or tribunal mentioned in the table in relation to those proceedings.

Proceedings to which costs relate	***"The relevant court or tribunal"***
Court proceedings	*The court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court*
First-tier Tribunal proceedings	*The First-tier Tribunal*
Upper Tribunal proceedings	*The Upper Tribunal*
Arbitration proceedings	*The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.*

51. The letter of JB Leitch makes clear that the stated costs were in anticipation of proceedings in court, and therefore not proceedings before the First-tier Tribunal. Paragraph 5A quoted above provides that "the relevant court or tribunal" for such court proceedings is "the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court". We cannot be the relevant court, as we are not a court at all – and accordingly we do not have jurisdiction in relation to these costs under Paragraph 5A.

52. It is worth noting that - nevertheless and following lengthy discussion at the hearing caused largely by our own desire to ensure we did not over-extend our jurisdiction into matters that should be dealt with in the County Court – we might have jurisdiction to consider these costs by dint of Paragraph 5 of that Schedule. That paragraph provides our

jurisdiction to consider administration charges in general, and relevantly sub paragraphs 5(1), (3) and (4) provide that:

5 (1) An application may be made to the appropriate tribunal for a determination whether an administration 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.

…

(3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) 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.

…

53. Accordingly, the Tribunal's jurisdiction to determine administration charges levied in relation to the costs of proceedings before courts is only ousted when a decision regarding those costs has already been made by such a court.

54. At present this is of no import as it is conceded by the respondent that those charges have not been properly demanded (and are therefore not payable as administration charges). However, if they were to be so demanded in future the Tribunal might have jurisdiction to consider the matter then. That being said, we would note that a Tribunal panel would likely expect significantly more detail regarding those charges before considering their payability.

The Late Payment Charge of £90

55. The respondent had charged the applicant £90 as a late payment charge in an invoice dated 16 February 2024 at page 198 of the bundle. The applicant averred there was no provision for such a charge under the lease. The respondent did not provide much explanation as to why it is chargeable, presumably due to the trifling nature of the sum involved, but did refer to the general provision of Clause 3.2 of the lease (which, to recite what we have already said above, refers to the occupier agreeing to pay all "…impositions and outgoings which may now or at any time be assessed charged or imposed upon the demised premises…").

56. As we have said before in relation to the respondent's argument, we do not believe that it is correct – and we do not agree that it gives the respondent the ability to demand administration charges as they see fit in the way they appear to suggest. Accordingly, we find that the £90 late payment fee is not payable.

Legal Fees of £288

57. The respondent charged the applicant £288 for legal fees in connection, apparently, with these proceedings in an invoice dated 25 November 2024 at page 206 of the bundle. The applicant's challenge to these fees was on the simple basis that they should be included in an order under Section 20c of the Landlord and Tenant Act 1985. For the reasons below we do not make such an order, and accordingly this administration charge is payable – payability under the lease per se having not been raised as an issue in relation to this item.

Application under s.20C and Paragraph 5a to Schedule 11 to the CLRA 2002

58. In the application form and at the hearing, the applicant applied for an order under section 20C of the 1985 Act and under paragraph 5a to Schedule 11 to the CLRA 2002.

59. We heard detailed submissions from both parties regarding our power to make orders under Section 20c of the Landlord and Tenant Act 1985 and under Paragraph 5A to Schedule 11 of the CLRA 2002, to extinguish the

respondent's contractual rights to recover costs either through the service charge or as an administration charge respectively.

60. In summary, the respondent submitted that we had to decide whether it was just and equitable to make such orders. We spent the day discussing, as Mr Alford described them, "interesting points about administration charges", but the main body of the application had been the service charges for insurance and roof works. Both of those issues had been withdrawn shortly before the hearing which had deprived his client the opportunity to consider settling the remaining issues on a commercial basis.

61. As regards the applicant, Ms Kumar-Jacob submitted that the applicant was unrepresented, and had done the best he could with genuine concerns. The respondent could have come to a commercial view anyway on the points remaining. We had spent the whole day discussing the matter, and therefore there must have been things worth discussing.

62. We have, as the applicant submitted, a wide discretion in relation to making orders under Section 20c of the Landlord and Tenant Act 1985 and Paragraph 5a of the CLRA 2002 – however we must feel it is just and equitable to make such an order; particularly as it extinguishes (if they exist) the respondent's contractually agreed rights. Accordingly, we must act with caution in relation to exercising that power.

63. Whilst it might be true that the applicant has been successful in relation to the leak detection survey and a late payment fee, this is not an exercise in simply asking who has won or lost, and how much, but considering whether it is just and equitable for a landlord's contractual rights to be interfered with to protect the applicant. To do this, the matter must be considered in the round.

64. In this case, the applicant withdrew the main body of their case at such short notice that the first we knew of it was when we were provided the applicant's skeleton argument telling us so on the morning of the hearing itself. We accept there is a question about when the applicant received the certificate for the insurance, the applicant averring that this was only on the Friday before the hearing date, but - as was observed by the respondent - paragraphs 14 and 15 (at page 40 of the bundle) of the tenant's case dated 9 December 2024 indicate an intimate knowledge of the terms of insurance on the applicant's part by at least that time.

65. The respondent had already, therefore, incurred costs and expended resource on responding to points that were not actually pursued. The remaining arguments concerned the costs of the proceedings themselves, a late payment fee of £90 (less than the hearing fee in this matter), costs demanded in a letter before action which we found we did not have jurisdiction in relation to (whilst noting there is slightly more to that story) and the costs of a leak detection survey. We have already

found that, despite the applicant's case to the contrary, the leak was the result of some issue with the subject flat – but, regardless of the fairness of the situation, the lease did not provide for it to be recovered from the applicant alone. Instead, the cost of the investigations arising now fall, in our finding, to the service charge.

66. In consideration of the above, we determine that it would not be just or equitable for us to make orders under either Section 20c of the Landlord and Tenant Act 1985, nor under Paragraph 5a of Schedule 11 to the Commonhold and Leasehold Reform Act 2002. We therefore do not do so.

Name: Mr O Dowty MRICS **Date:** 27 May 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).