



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

<b>Tribunal Case References</b>	<b>:</b>	<b>LON/00BJ/LSC/2024/0646</b>
<b>Properties</b>	<b>:</b>	<b>First Floor Flat, 47 Atheldene Road, London SW18 3BN</b>
<b>Applicants</b>	<b>:</b>	<b>Beatrice Welmer Huw Selvey</b>
<b>Respondent</b>	<b>:</b>	<b>Assethold Ltd</b>
<b>Representative</b>	<b>:</b>	<b>Eagerstates Ltd</b>
<b>Type of Application</b>	<b>:</b>	<b>Payability of service charges</b>
<b>Tribunal</b>	<b>:</b>	<b>Judge Nicol Ms S Beckwith</b>
<b>Date and venue of Hearing</b>	<b>:</b>	<b>16<sup>th</sup> June 2025 10 Alfred Place, London WC1E 7LR</b>
<b>Date of Decision</b>	<b>:</b>	<b>16<sup>th</sup> June 2025</b>

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**DECISION**

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- (1) The service charges challenged in this matter and listed in the attached Scott Schedule are not reasonable nor payable by the Applicants to the Respondent, save as expressly allowed therein.**
- (2) The Respondent shall reimburse the Applicants their Tribunal fees totalling £330.**
- (3) The Respondent's costs, if any, incurred in connection with the proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicants in accordance with section 20C of the Landlord and Tenant Act 1985.**

- (4) **The Respondent may also not impose an administration charge in respect of their litigation costs, if any, in accordance with paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.**

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

### **Reasons**

1. The subject property consists of a 3-storey terraced house converted into 2 flats. The Respondent is the freeholder. Their managing agents are Eagerstates Ltd.
2. The Applicants are the lessees of the First Floor Flat, the other flat being on the ground floor. They applied for a determination under the Landlord and Tenant Act 1985 (“the 1985 Act”) and the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) as to the reasonableness and payability of certain service and administration charges.
3. On 5<sup>th</sup> December 2024, the Tribunal issued directions. On 26<sup>th</sup> March 2025 the Tribunal issued further directions and a notice that it was minded to bar the Respondent from further participation in the proceedings under rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. On 22<sup>nd</sup> April 2025, the Tribunal confirmed that the Respondent had been so barred.
4. On 21<sup>st</sup> May 2025 the Respondent applied to lift the barring order and, alternatively, for permission to appeal. The Tribunal refused the application on 29<sup>th</sup> May 2025.
5. The Tribunal heard the case on 16<sup>th</sup> June 2025. The Applicants attended but the Respondent did not. The documents before the Tribunal consisted of a bundle of 315 pages prepared by the Applicants and including all the documents provided by the Respondent during the course of these proceedings.

### *Proceed in absence*

6. Under rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the Tribunal may proceed with the hearing in the absence of the Respondent if satisfied that they had sufficient notice of the hearing and it is in the interests of justice to proceed.
7. The hearing date was set out in the Tribunal’s directions of 26<sup>th</sup> March 2025, which, since the Respondent made representations in response, had clearly reached them. The Respondent and their agents, Eagerstates, are frequent participants in matters before this Tribunal and communicate with the Tribunal often. The Tribunal is therefore satisfied that they had sufficient notice of the hearing.

8. Mr Ronni Gurvits of Eagerstates, as is common practice when the Respondent is a party before this Tribunal, appears to have run the litigation on the Respondent's behalf. He is a non-practising solicitor but has substantial experience of Tribunal proceedings. He knows what procedure to use and that he ought to use it.
9. Quite apart from the fact that the Respondent has been barred, it has become common in recent times for the Respondent to be absent from and unrepresented at hearings. There has been no communication ahead of the hearing addressing their attendance. If the Tribunal were to adjourn, there is no reason to think it any more likely that they would attend next time. On the other hand, not proceeding would cause unnecessary and inconvenient delay for the Applicants and the Tribunal.
10. Therefore, it is in the interests of justice to proceed in the Respondent's absence.

#### *Service and administration charges*

11. The Applicants challenge a number of service and administration charges the Respondent sought to impose for the year to March 2022 and for the following 6-month period prior to the acquisition of the right to manage by the 47 Atheldene Road RTM Co Ltd which they own together with the owner of the downstairs flat, Mr Wayne Decanha. As per the Tribunal's directions, the Applicants set out their challenges in a Scott Schedule.
12. The Respondent should have put their comments alongside those of the Applicants in the Schedule but failed to do so and are now barred. Therefore, the column for their comments has been deleted from the attached Schedule.
13. The attached Schedule contains the Tribunal's decision in relation to each item of challenge in the final column.

#### *Costs*

14. The Applicants paid fees to the Tribunal, £110 for the application and £220 for the hearing. They were incurred due to the Respondent's failure even to try to justify the charges they sought to impose. The Tribunal is satisfied that it is appropriate to order the Respondent to reimburse the Applicants the total sum of £330.
15. The Applicants applied for an order under section 20C of the Landlord and Tenant Act 1985 that the Respondent should not be permitted to recover any of their costs of these proceedings through the service charge. It is not clear that they will have incurred any, given their minimal involvement in this case, but it is nevertheless just and equitable to make such an order given their lack of engagement and the findings against them.

16. The Respondent may also not recover their litigation costs, for the same reasons, in accordance with paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

**Name:** Judge Nicol

**Date:** 16<sup>th</sup> June 2025

## **Appendix A – 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 20C**

- (1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.
- (2) The application shall be made—
  - (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
  - (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the

- application is made after the proceedings are concluded, to any residential property tribunal;
  - (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
  - (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.
- (3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

## **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.

## **Commonhold and Leasehold Reform Act 2002**

### **Schedule 11, paragraph 1**

- (1) In this Part of this Schedule “administration charge” means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
  - (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,

- (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
  - (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
  - (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.
- (2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.
- (3) In this Part of this Schedule “variable administration charge” means an administration charge payable by a tenant which is neither—
  - (a) specified in his lease, nor
  - (b) calculated in accordance with a formula specified in his lease.
- (4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

**Schedule 11, paragraph 2**

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

**Schedule 11, paragraph 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.
- (2) Sub-paragraph (1) applies whether or not any payment has been made.
- (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.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.
- (6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
  - (a) in a particular manner, or

(b) on particular evidence,  
of any question which may be the subject matter of an application under  
sub-paragraph (1).

**Schedule 11, paragraph 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.

<b><i>Proceedings to which costs relate</i></b>	<b><i>“The relevant court or tribunal”</i></b>
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.