

		FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)
Case Reference	:	MAN/00CK/LSC/2024/0227
Property	:	7 Irvin Building, Union Quay, North Shields, Tyne and Wear, NE30 1HB
Applicant	:	Malcolm Rivett
Respondent	:	Ralbos Ltd
Type of Application	:	Landlord & Tenant Act 1985 – s 27A Landlord and Tenant Act 1985 – s 20B Landlord and Tenant Act 1985 – s 20C Commonhold and Leasehold Reform Act 2002 – sch 11 para 5A
Tribunal Members		Judge Richard M. Dobson-Mason LLB Mr Neil Swain MRICS
Date of Decision	:	2 June 2025

DECISION

- (1) The Tribunal determines that the service charge payable by the Applicant in relation to water / sewerage charges for the Property for the period 31 August 2019 to 31 March 2021 is £226.94.**
- (2) The Tribunal determines that the service charge payable by the Applicant in relation to water / sewerage charges for the Property for the period 1 April 2022 to 31 March 2023 is in the amount of £114.00.**
- (3) The Tribunal declines to make an order under s 20B Landlord and Tenant Act 1985.**
- (4) The Tribunal makes an order under s 20C Landlord and Tenant Act 1985 and para 5A sch 11 Commonhold and Leasehold Reform Act 2002.**

REASONS

Background

1. The Application relates to 7 Irvin Building, Union Quay, North Shields, Tyne and Wear, NE30 1HB (*“the Property”*). The Property was built approximately 10 years ago.
2. The Applicant is Mr Malcolm Rivett, the long leaseholder of the Property.
3. The Respondent is Ralbos Ltd, the freeholder of the Property and of the Irvin Building.
4. The Property is a one-bedroom flat. It was not inspected by the Tribunal, but the Tribunal was told that the Irvin Building comprises 28 properties, 26 of which are residential flats - the Property being one - and 2 of which are commercial units.

5. Water / sewerage services are supplied to those 28 properties, plus a communal tap, which are recharged by or on behalf of the Respondent by way of service charges.

The application

6. On 16 May 2024, the Applicant made the Application for an order under s 27A Landlord and Tenant Act 1985 for a determination as to the reasonableness and payability of the service charges relating to the water / sewerage charges for the Property for the period 31 August 2019 to 31 March 2023.
7. The Applicant sought further orders in respect of s 20B Landlord and Tenant Act 1985 that the demands relating to the above service charges had been made out of time, and in respect of s 20C Landlord and Tenant Act 1985 and para 5A sch 11 Commonhold and Leasehold Reform Act 2002 to restrict the recovery of the costs of the proceedings as service charges and / or administration charges.

Directions

8. Directions were made by a Legal Officer on 17 March 2025 (*“the Directions”*) requiring the Respondent to provide to the Applicant an explanation as to how the water / sewerage charges included in the service charges for the relevant periods were calculated and copies of invoices for such charges, followed by sequential filing and service of the parties’ statements of case and evidence in support.

The hearing

9. The hearing took place by way of a video hearing on 2 June 2025.
10. The Applicant represented himself in person.
11. The Respondent was represented by Miss Chantelle Pidgley, a Property Manager for the Respondent.

12. The Applicant had submitted a Statement of Case dated 9 April 2025 with a bundle of supporting documentation.
13. The Respondent had submitted an undated Statement of Case with a bundle of supporting documentation.
14. Neither party submitted a witness statement.

Preliminary application

15. The Applicant initially made an oral application to rely on 2 documents which it sent to the Tribunal by email of 21 May 2025, namely 1) a version of his Statement of Case dated 9 April 2025 with updated paragraph numbering and references to the Hearing Bundle, and 2) a document headed Applicant's Response on Ralbos Ltd's Statement of Case dated 20 May 2025.
16. The Respondent did not object to the above application.
17. The Tribunal noted the lack of objection by the Respondent, the provision in the Directions for the Applicant to reply to the Respondent's Statement of Case, and that the documents could assist in the conduct of the hearing and the Tribunal's understanding of the parties' cases, and therefore considered it to be just to allow the application.

The agreed issues

18. During the hearing, the parties confirmed that the following issues were agreed: -
 - a. The service charge for the Property, for which the Applicant is responsible to pay, includes the water / sewerage charges in question.

- b. The applicable unit charge for water / sewerage for the Property for the period 31 August 2019 to 31 March 2021 was £3.00 per unit.
- c. The applicable unit charge for water / sewerage for the Property for the period 1 April 2021 to 31 March 2022 was £2.87 per unit.
- d. The service charge payable by the Applicant in relation to water / sewerage charges in respect of the Property for the period 1 April 2022 to 31 March 2023 is in the agreed amount of £114.00.

The disputed issues

- 19. The issues to be decided during the hearing, therefore, were: -
 - a. The service charge payable by the Applicant in relation to water / sewerage charges in respect of the Property for the period 31 August 2019 to 31 March 2022.
 - b. Whether the demands relating to the service charges had been served out of time, pursuant to s 20B Landlord and Tenant Act 1985.
 - c. Whether an order should be made to restrict the recovery of the costs of the proceedings as service charges and / or administration charges from the Applicant, pursuant to s 20C Landlord and Tenant Act 1985 and para 5A sch 11 Commonhold and Leasehold Reform Act 2002.

The law

- 20. The Tribunal is given jurisdiction to decide the reasonableness and payability of service charges by s 27A Landlord and Tenant Act 1985, which provides: -

(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.*

21. Subsection 2 provides that the application may be made whether or not any payment has been made by the Applicant.

22. Section 20B Landlord and Tenant Act 1985 limits the payability of service charges by reference to the date on which they were demanded, where it provides: -

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

23. Section 20C Landlord and Tenant Act 1985 provides that the Tribunal may restrict the recoverability of the costs of the proceedings as service charges, where it states:

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(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...the First-tier Tribunal...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...

(ba) in the case of proceedings before the First-tier Tribunal, to the tribunal.

(3) The...tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

24. Para 5A Sch 11 Commonhold and Leasehold Reform Act 2002 mirrors s 20C Landlord and Tenant Act 1985 above, but applies to costs that may be recovered as administration charges, as opposed to service charges, where it provides: -

(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.

Service charges for 31 August 2019 to 31 March 2022

25. In summary, the Applicant submitted that: -

- a. From 2014 to late 2019, the water / sewerage elements of the service charges for the Property was based on a fixed percentage of the usage for the whole of the Irvin Building. The Respondent purchased the Irvin Building in September 2019 and thereafter the water / sewerage charges were based on sub-meter readings for each of the properties. Some of the sub-meters were accessible from outside the relevant properties, however, others were not. The Property comes within the latter category.
- b. The Applicant did not supply water / sewerage meter readings for this period because he was not aware that he was required to do so. There were 5 other flats in the Irvin Building who the Respondent says also did not supply sufficient meter readings for this period. The first meter reading that the Applicant provided was in January 2022 where the reading was 235 units. The

Applicant provided a reading for the end of this period, in March 2022, of 241 units.

- c. The Respondent had taken the 4,128 unallocated units for the Irvin Building for this period and split it between the Property and the other 5 flats, leading to a charge to the Applicant of £2,025.54, which the Applicant suggested is not fair and reasonable.
- d. The Applicant provided estimated readings for this period amounting to 74 units (based on a usage of roughly 29 units per year) as opposed to the 688 he has been charged.

26. In summary, the Respondent submitted that: -

- a. It purchased the Irvin Building from Gentoo Group Limited ("*Gentoo*") in August 2019. Initially, Baskeys Ltd were appointed as managing agent, before, in January 2020, it appointed Kingston Property Services Limited ("*KPS*") instead.
- b. In February 2025, it became aware of the Application and engaged in an initial review of the water / sewerage charges. It proposes to engage a new managing agent in August 2025.
- c. All residents were sent, by Gentoo, communication requesting quarterly meter readings, and that the readings were put on a noticeboard on a monthly basis and the sheet would indicate which water meters were not publicly accessible.
- d. During Gentoo's ownership, between 2014 and late 2019, the Applicant did not dispute the water / sewerage charges for the Property. During that time, those flats which were not publicly accessible, including the Property, and did not provide regular meter readings were charged for their water / sewerage on a floor area calculation, which was then multiplied by the cost per square meter.

- e. KPS continued to display a list of water meter readings on the communal notice board, located in the entrance hallway, next to the post boxes. It would therefore be reasonable to assume that the Applicant, or his tenant, would have seen them.
- f. The water charges for this period are still under investigation by the Respondent. KPS told the Respondent that there were 6 flats whose water / sewerage for the period could not be accurately calculated, due to either no final meter reading being provided by Gentoo, or no up-to-date reading being provided by the occupiers / owners. They therefore had to make a decision in preparing the actual accounts for the year in question as to what to do with the unallocated water usage. The decision was made to split the usage between the 6 properties in equal amounts given that it was not possible to allocate the usage between the properties. Those involved in the decision maintain that this was the most reasonable thing to do in the circumstances.
- g. The Applicant does not dispute that he continued to be responsible for a fair and reasonable apportionment of the water and sewerage charges for the Property since 2019, and that it has been occupied since before 2019.

27. The Tribunal determines that: -

- a. The Property had been constructed in about November 2014, at which time, on a balance of probabilities, the meter reading would be zero, or thereabouts.
- b. The meter reading provided by the Applicant and accepted by the Respondent as at March 2022 was 241 units.
- c. On that basis, a reasonable annual usage would be approximately 29 units. The reasonable cost of water / sewerage for the Property for the period 31 August 2019 to 31 March 2021 would therefore equate to 48 units at £3.00 per unit,

totalling £144.00, and for the period 1 April 2021 to 31 March 2022 to 29 units at £2.86 per unit, totalling £82.94, making a grand total of £226.94.

Demands out of time

28. The Applicant submitted that: -

- a. A significant proportion of the water / sewerage charges for the above period 31 August 2019 to 31 March 2022 (noting that the charges for 1 April 2022 to 31 March 2023 were agreed) were invoiced more than 18 months after some of the relevant expenditure was incurred. Accordingly, he should not be liable for those charges.
- b. The Applicant received a Statement of Anticipated Service Charge Expenditure from KPS dated 15 April 2020 for the period 1 April 2020 to 31 March 2021, which included water and sewerage charges, and a similar statement dated 23 April 2021 for the period 1 April 2021 to 31 March 2022, both of which he paid.
- c. When the Applicant received disclosure from the Respondent in these proceedings, he noted that the statement for 1 April 2020 to 31 March 2021 also included charges from 31 August 2019.
- d. The Applicant then received a letter dated 12 June 2023 from KPS, identifying that, in respect of water / sewerage charges, he had been invoiced and paid the £527.05 broken down as follows: -

£13.40 for the period up to 31 March 2020
£165.56 for the period up to March 2021
£348.09 for the period up to 31 March 2022
- e. The above letter enclosed an invoice for the period 1 January 2020 to 31 March 2022 for £1,498.49 for 'water charges', totalling £2,025.54 when the prior payment is factored in.

29. The Respondent submitted that: -

- a. The Applicant agreed that he was aware of his responsibility to pay water and sewerage charges included in his service charge, that he would be required under the terms of his lease to contribute to them, and the charges were not unexpected and continued to be based on an apportionment of the unallocated water charges since 2014.
- b. The Applicant received a copy of the actual accounts for year ending 2020, 2021 and 2022, and confirmed that the Property was occupied during the period in question.
- c. Accordingly, the Applicant should be liable for the water / sewerage charges for the period 1 August 2019 to 31 March 2022.

30. The Tribunal determines that: -

- a. The Applicant had initially been invoiced for £527.05 in respect of service charges for water / sewerage charges for the period 1 August 2019 to 31 March 2022.
- b. The sums determined by the Tribunal, as above, owing by the Applicant to the Respondent in respect of the above period is less than that figure.
- c. Accordingly, s 20B Landlord and Tenant Act 1985 is not engaged and the Tribunal makes no order in respect of the same.

Recoverability of costs of proceedings

31. The Applicant made applications that the costs of the proceedings should not be recovered from him by way of service charge or administration charge, as recorded in the Preliminary section of the Directions.

32. The Respondent did not oppose those applications, stating that it was unsure whether the Lease in fact allowed the costs of the proceedings to form part of service charges or administration charges, and that in any event it did not intend to raise any such charges.
33. The Tribunal considered the applications on the basis that the Lease does provide for such costs to be recovered, without deciding (or being invited to decide) whether that is the case.
34. Having heard the above submissions from the parties and taking into account the determination above, the Tribunal determines that it is just and equitable in the circumstances for an order to be made under s 20C Landlord and Tenant Act 1985 and sch 11 para 5A Commonhold and Leasehold Reform Act 2002, so that the Respondent may not pass on any of its costs incurred in connection with these proceedings to the Applicant by way of service charge or administration charge.

Judge Richard M. Dobson-Mason

2 June 2025