FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00AG/LSC/2025/0683**
Property	**:**	**Flat 3, First/Middle Floor, 16 Priory Terrace, West Hampstead, NW6 4DH**
Applicant	**:**	**Elenie Aird**
Representative	**:**	**Chris Vyras (Ms Aird's father)**
Respondent	**:**	**Stripecross Limited**
Representative	**:**	**Mr Mold (counsel)** **Instructed by Bolt Burdon**
Type of application	**:**	**For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985**
Tribunal members	**:**	**Judge J Moate** **Mr Fonka FCIEH**
Date of decision	**:**	**18 July 2025**

DECISION

Decisions of the Tribunal

(1) The sum payable in respect of the building insurance premium in the service charge year 2023-2024 is £2,098.

(2) None of the Respondent's costs of these proceedings may be passed to the leaseholders through any service charge, pursuant to section 20C of the Landlord and Tenant Act 1985

(3) The Respondent is not entitled to recover any costs of these proceedings as an administration charge, pursuant to paragraph 5A of schedule 11 of the Commonhold and Leasehold Reform Act 2002.

(4) The Respondent shall pay to the Applicant the Tribunal fees paid by her, in the sum of £330, within 28 days of this Decision.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Applicant in respect of the service charge year 2023-2024.

2. One of the items in dispute is the building insurance premium for that service charge year.

3. On 11 March 2025 Judge Adrian Jack gave specific directions for disclosure and valuation for the purposes of the building insurance as follows **[20]**:

Disclosure and valuation

1. By 11th April 2025 the landlord shall send to the applicant by email in electronic form a copy of all documents on which it relies. The landlord shall also send any valuation obtained for insurance purposes in respect of the premises.

2. By 25th April 2025 the applicant shall indicate to the landlord whether she agrees with the valuation evidence disclosed by the landlord and, if not, propose the details of two valuers to assess the rebuilding value of the building in 2023-24. (The parties are at liberty to agree than any valuation should be a desk-top valuation.)

3. The landlord shall by 9th May 2025 indicate to the applicant whether it is willing to instruct one of the two valuers jointly with the tenant to assess the rebuilding value of the building and if not, why not. If the parties cannot agree on what steps should be taken to assess the rebuilding cost and how the cost of the valuer should be divided between the parties (unless the parties agree that it should be a service charge item, a party should promptly apply to the Tribunal for directions on a form Order 1.

4. In respect of the Building Insurance Judge Adrian Jack stated that **[19]**:

"*the two issues appear to be (a) whether the tenant has been double-charged for the insurance and (b) whether the rebuilding cost of*

£2,586,494 for which insurance has been obtained is justified. It is unclear what steps the landlord took to obtain that valuation."

5. On 7 May 2025, the Respondent's solicitors wrote to the Tribunal as follows:

"The Applicant has confirmed to our client that the valuation evidence disclosed by the Landlord is agreed. It is therefore agreed by both parties that no joint valuation expert is to be instructed."

6. On 05 June 2025, the Respondent made an application to adjourn both the directions and the hearing listed for 25 June 2025 on the grounds that the parties were in settlement discussions. This application was opposed by the Applicant and was refused by Judge Donegan on 17 June 2025 on the basis that it would substantially delay the case and be contrary to the overriding objective **[27]**.

7. On 19 June 2025 the Applicant made an application to debar the Respondent pursuant to Tribunal Rules 9 (7) and 9 (8) on the basis that the Respondent had failed to comply with the directions of Judge Adrian Jack dated 11 March 2025.

8. Judge Martynski directed that the request to debar be considered at the start of the hearing.

The hearing

9. The hearing took place on 25 June 20025. The Applicant was represented by her father, Mr Vyras, at the hearing and the Respondent was represented by Mr Mold of counsel.

10. At the start of the hearing, the Tribunal asked Mr Vyras to identify any documents upon which the Applicant sought to rely which were not in the Respondent's Bundle. The parties had not been able to agree the contents of the bundle and the Applicant had sent the Tribunal numerous individual attachments in support of her application. Mr Vyras said that most of the key documents were in the bundle and confirmed that he could refer the Tribunal to relevant emails contained within the attachments during the hearing. Mr Mold confirmed that the Respondent had seen the attachments and was content to proceed in this way.

11. The Tribunal asked if Mr Vyras had seen Mr Mold's skeleton argument, sent to the Tribunal the day before the hearing. Mr Vyras said that he had looked through it but not read it in detail. The Tribunal allowed some time for Mr Vyras to read the skeleton argument.

12. The Tribunal noted that the parties had been engaging in settlement negotiations and that, based on Mr Mold's skeleton argument, the issues appeared to have been narrowed. The Tribunal allowed the parties a short time for settlement discussions which resulted in further agreement.

13. Following the settlement discussions, Mr Vyras indicated that the Applicant did not intend to pursue the application to debar the Respondent from participating in the hearing due to non-compliance with the Tribunal's directions. **The Tribunal did not therefore need to determine the application to debar.**

The background

14. The property which is the subject of this application is a self-contained flat on the first floor of a semi-detached 4-storey house converted into 4 self-contained flats.

15. The Applicant holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The relevant provisions of the lease at Clause 4 are as follows [**118-123**]:

(1) The lessee shall contribute and pay to the lessor a of share of the annual maintenance cost

(5) The Annual Maintenance Cost shall be the total of all sums actually spent by the Lessor during the period to which the relevant Annual Maintenance Account relates in connection with the management and maintenance of the Building

(7) The Lessor will use its best endeavours to maintain the Annual Maintenance Cost at the lowest reasonable figure consistent with the due performance and observance of his obligations herein as and when the Lessor or its Managing Agents for the time being shall consider such performance and observance to be reasonably necessary

16. The landlord's obligations are at clause 5 of the Lease [**122**] and include at 5 (7) keeping the building insured. There was no dispute over the interpretation of the terms of the lease or the tenant's liability to pay a service charge under the lease.

17. The Tribunal received an application from the Applicant in respect of the service charge year 2023-24 **[1]**.

18. In dispute was the payability and/or reasonableness of the following items **[10]**:

1) Building Insurance (Arthur J. Gallagher Insurance Broker Ltd) in the sum of £3,968.72

2) General Repairs (Cascatia Water) in the sum of £3,042.00

3) General Repairs (Pyramid Solutions Ltd) in the sum of £744.00

4) General Repairs (DB Electrical (London) Ltd) in the sum of £585.60

5) Fire Doors Inspection in the sum of £360.00

6) Health and Safety Units in the sum of £465.60

7) Property Debt Collection Ltd in the sum of £205.00

19. The Tribunal was also asked to consider the following management related items:

8) End of the year stated Actual Service Charge Deficit balance of £2,910.00.

9) The stated Reserve Fund Balance of £1,2575 as at the end of the Year 2024/2025.

10) Other Reserve Accounts used for the block.

11) 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.

The issues

12) The Tribunal explained to the parties that it did not have jurisdiction to consider items 8), 9) and 10) because these are accounting matters which do not fall within the scope of s.27A of the Landlord and Tenant Act 1985.

13) In the Respondent's *Comments to Applicant's Schedule of Disputes* (undated) **[259]**, the Respondent admitted that items 2) General Repairs (Cascatia Water) in the sum of £3,042.00 and 7) Property debt Collection Ltd in the sum of £205.00 were not payable by the Applicant.

The Tribunal did not therefore need to determine items 2) and 7) as these were admitted by the Respondent.

14) In Mr Mold's Skeleton Argument dated 24 June 2025, the Respondent further admitted that item 4) General Repairs (DB Electrical (London) Ltd) in the sum of £585.60 was not payable by the Applicant under the

terms of the lease because the lighting concerned was not in the communal parts. This was contrary to the Respondent's express position in its statement of case.

The Tribunal did not therefore need to determine item 4) as this was admitted by the Respondent.

15) Following settlement negotiations at the start of the hearing the parties agreed reduced service charge sums in respect of items 3) General Repairs (Pyramid Solutions Ltd), 5) Fire Doors Inspection and 6) Health and Safety Units. The parties drew up and signed a memorandum of agreement. Mr Mold requested that this agreement remain confidential, so the sums agreed were not disclosed to the Tribunal.

The Tribunal did not therefore need to determine items 3), 5) and 6) as these were agreed between the parties.

16) The only remaining item to be determined was item 1) Building Insurance in the sum of £3,968.72 ("the 2023-2024 Building Insurance Premium"). This sum was based on an invoice from Arthur J. Gallagher Insurance Broker Ltd dated 27 February 2023 with insurance provided by Zurich Insurance PLC (UK) and Lancashire Insurance Co (UK) Ltd **[206]**.

17) The Applicant challenged:

a) The reasonableness of the Building Insurance Premium; and

b) The payability of the Building Insurance Premium.

Building Insurance Premium in the sum of £3,968.72

18) On 27 February 2023 Arthur J. Gallagher Insurance Broker Ltd sent an invoice to the Respondent for building insurance for 16 Priory Terrace for the period 01 April 2023 to 31 March 2024 ("the Gallagher invoice 2023"). The insurance was provided by Zurich Insurance PLC (UK) and Lancashire Insurance Co (UK) Ltd. The invoice gave a reinstatement value of £2,586,494 for "Buildings" and provided for a total premium (including terrorism) of £3,968.72.

19) On 31 January 2024 Shaw & Co prepared a *Building Reinstatement Cost Assessment for Insurance Purposes* ("the Shaw & Co valuation") in respect of 16 Priory Terrace, which assessed the re-instatement value of the building at £1,425,000 (or £1,674,500 including VAT) **[46, 51],** almost £1,000,000 less than the reinstatement value in the Gallagher invoice 2023.

20) Mr Vyras submitted on behalf of the Applicant that the 2023-2024 Building Insurance Premium of £3,968.72 was not reasonable.

21) He contended that the premium was inflated because it was based on a building reinstatement value of £2,586,494, which was too high. He queried the basis of the reinstatement value in the Gallagher Invoice 2023.

22) Mr Vyras said the Applicant relied on the Shaw & Co valuation which assessed the reinstatement value at £1,425,000 (or £1,674,500 including VAT) **[46, 51]**. Mr Vyras confirmed, as he had done in an email dated 25 April 2025 to the Respondent's solicitors, that the Applicant agreed the Shaw & Co reinstatement value.

23) Mr Vyras argued on behalf of the Applicant that if the 2023-2024 building insurance premium had been calculated based of the Shaw & Co valuation, it would have been in line with the 2025-2026 building insurance premium from Barlett & Company Limited Chartered Insurance Brokers dated 28 March 2025 (with insurance provided by Allianz), which was £2,098 (inclusive of VAT) **[55]**. Mr Vyras submitted that the service charge for building insurance for 2023-2024 should be based on this lower amount.

24) As to payability of the 2023-2024 Building Insurance Premium, Mr Vyras submitted that the Applicant believed she had been "double charged" for this expenditure item. He explained that the premium of £3,968.72 had been charged to the tenant's service charges and the same sum debited on the 21 August 2023 to the Reserve Account. Upon questioning by the Tribunal, Mr Vyras accepted that the amount had only been drawn once against the Barclays reserve bank account **[212]**.

25) Mr Mold submitted on behalf of the Respondent that insurance premiums could go up and down and were not necessarily linked to the reinstatement value. He relied upon the Gallagher invoice for building insurance in 2024-25 which had a lower reinstatement value of £1,770,886 but a higher premium of £4,147.27 (including VAT) **[207]**. He said that the Respondent had been able to secure different insurance with a lower premium in 2025-2026 but that did not mean the 2023-2024 building insurance premium had been too high.

26) Upon questioning by the Tribunal Mr Mold accepted there was no valuation evidence in support of the reinstatement sum of £2,586,494 used in the Gallagher Invoice 2023.

27) The Tribunal asked why the Respondent had not sought a reinstatement valuation for the period 2023-2024 as envisaged by the directions. Mr Mold responded that the Respondent had provided the Shaw & Co valuation with the reinstatement value assessed at £1,425,000 (not

including VAT). He submitted that as the Applicant had agreed this valuation it was not necessary to instruct a further valuer. Mr Mold accepted that the Respondent had not obtained any other reinstatement valuation, that there was no reinstatement valuation for the relevant period (2023-2024) and that the Respondent was effectively "stuck with" the Shaw & Co reinstatement valuation of £1,425,000. He submitted that it was for the Applicant to provide alternative insurance quotes based on that valuation, and her failure to do so meant she had not established her case.

28) In respect of the Applicant's contention that he had been "double charged" for the 2023-2024 Building Insurance Premium, Mr Mold submitted that this was denied by the Respondent. He explained, with the assistance of Mr Davies, director for the Respondent, that the money in the reserve account was used to pay for the insurance and that the managing agents HML paid the insurance premiums for both the years 2023 and 2024 within the same service charge year. When insurance payments fall in the same year, the end of year accounts are corrected to reflect the accruals and prepayments.

29) Having heard evidence and submissions from the parties and considered all the documents provided, the Tribunal determines as follows.

The Tribunal's decision

30) The Tribunal determines that the sum payable in respect of the building insurance premium in the service charge year 2023-2024 is £2,098.

Reasons for the Tribunal's decision

31) The question for the Tribunal is whether the service charge in respect of the building insurance premium is payable, because it is reasonably incurred (Section 19 Landlord and Tenant Act 1985).

32) As per *Forcelux Ltd v Sweetman* [2001] 2 EGLR 173, referred to in the Respondent's skeleton argument and approved in the decision of Court of Appeal in *The London Borough of Hounslow v Waaler* [2017] EWCA Civ 45 [2017], 1 W.L.R. 2817, the phrase "reasonably incurred" is a two stage test: (1) was the decision-making process reasonable; (2) is the sum to be charged reasonable in the light of market evidence.

33) Whilst the landlord is not required to find the cheapest possible building insurance premium on the market, they must take reasonable steps to test the market. The Respondent is bound by the terms of the Lease to *use its best endeavours to maintain the Annual Maintenance Cost at the lowest reasonable figure consistent with the due performance and observance of his obligations*.

34) The building reinstatement value used for the 2023-2024 Building Insurance Premium under dispute was almost £1,000,000 higher than the Shaw & Co reinstatement value used for the 2025-2026 premium. Accordingly, the Respondent had a prima facie case to meet in respect of how the 2023-2024 reinstatement value was calculated, what steps the landlord took to obtain this figure and how it affected the premium.

35) The Tribunal gave clear directions for the Respondent to provide valuation evidence in respect of the reinstatement value. Judge Adrian Jack noted that one of the key issues was "*whether the rebuilding cost of £2,586,494 for which insurance has been obtained is justified. It is unclear what steps the landlord took to obtain that valuation.*"

36) The Respondent nevertheless chose not to obtain a reinstatement valuation for the relevant period (2023-2024) and did not provide any evidence from the Arthur J. Gallagher Insurance Broker Ltd as to how the figure of £2,586,494 was calculated. The Respondent failed to provide evidence to show what steps the landlord took to obtain that re-instatement value. It remains a mystery how the figure of £2,586,494 came into being.

37) Further, the Respondent did not provide any policy, schedule or other documentation in support of the 2023-2024 building insurance premium and was unable to demonstrate whether the landlord had tested the market at all.

38) The Tribunal considered the Respondent's assertion that insurance premiums can go up and down and that in 2024-2025 Gallagher gave a lower reinstatement value but the premium remained relatively high. However, in the absence of any evidence showing how the reinstatement value and premiums were calculated and without the insurance policy documents showing what insurance cover was provided in each successive year, the Tribunal finds this assertion to be speculative.

39) The Tribunal takes judicial notice that the cost of building insurance has increased on average since 2023 due to inflation and the rising cost of labour and materials, and finds it would be more likely for building insurance to go up than down between 2023 and 2025. The Tribunal considers it unlikely that the property's reinstatement value would reduce by circa £1,000,000 in the same period.

40) The Tribunal also considered the Respondent's argument that the Applicant could have provided "alternative quotes". The Tribunal finds that in the absence of the relevant insurance policy, insurance schedule or any other background information in respect of the 2023-2024 building insurance invoice, it would have been difficult if not impossible for a leaseholder to obtain comparative insurance quotes for the whole house.

41) Applying the two-stage test in *Forcelux Ltd v Sweetman* the Tribunal is not satisfied on the balance of probabilities that the premium of £3,968.72 (including VAT) was reasonably incurred. In respect of stage (1) the Tribunal is not satisfied that the decision-making process was reasonable because the Respondent failed to show what steps, if any, they took to secure the lowest reasonable figure and failed to provide any evidence as to how the Gallagher invoice (and re-instatement figure) was obtained.

42) In respect of stage (2) the Tribunal is not satisfied that the sum charged is reasonable in the light of market evidence because the Respondent failed to meet the prima facie case that the sum charged was inflated due to an inaccurate reinstatement value. The only reinstatement valuation available to the Tribunal was that provided by Shaw & Co, which assessed the reinstatement value as ££1,674,500 (including VAT).

43) Accordingly, the Tribunal finds that the premium payable for 2023-24 should be no more than that being paid now (based on the Shaw & Co valuation), in the sum of £2,098 (including VAT).

44) The Tribunal does not find that the Applicant was double charged for the insurance premium but notes that if the insurance sum for the service charge year 2023-2024 does appear twice, this is an accounting issue over which the Tribunal had no jurisdiction. The Tribunal notes the Respondent's assurance that the end of year accounts will be corrected to reflect the accruals and prepayments.

Application under s.20C, paragraph 5A and refund of fees

45) At the end of the hearing, the Applicant made an application for a refund of the fees that he had paid in respect of the application and the hearing[1]. Having heard the submissions from the parties and taking into account the admissions and concessions made by the Respondent at different stages in these proceedings along with the determination above, the Tribunal finds that it was necessary for the Respondent to bring these proceedings to resolve the issues in his application and orders the Respondent to refund the fees paid by the Applicant in the sum of £330 within 28 days of the date of this decision.

46) In the application form the Applicant applied for an order under section 20C of the 1985 Act and paragraph 5A of schedule 11 of the Commonhold and Leasehold Reform Act 2002.

47) Mr Mold suggested that the Tribunal ought to take a percentage-based approach to costs. The Tribunal does not agree with this approach. Most of the allegations were compromised at the start of the hearing and could

[1] The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

have been agreed. Importantly, the only disputed issue which required a decision at a hearing by the Tribunal was determined against the Respondent. Having heard the 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 section 20C of the 1985 Act and pursuant to paragraph 5A of schedule 11 of the Commonhold and Leasehold Reform Act 2002, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the Tribunal through the service charge or as an administration charge.

Name: Judge J Moate **Date:** 18 July 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).