FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AG/LSC/2024/0752** **LON/00AG/LAC/2025/0600**
Property	:	**Raised Ground floor flat, 7 Belsize Avenue, London, NW3 4BL**
Applicant	:	**Judith Finn**
Representative	:	**Mark Loveday**
Respondent	:	**7 Belsize Avenue London (Management Company) Limited**
Representative	:	**Greg Leckey**
Type of application	:	**An application under section 27A Landlord and Tenant Act 1985**
Tribunal	:	**Judge Shepherd** **John Stead BSc(Hons) MSc**
Date of Decision	:	**25th July 2025**

DETERMINATION

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1. In this case the Applicant is the leaseholder of a flat in a property called 7 Belsize Avenue, London NW3 (The property). The property comprises a mid-

terrace house split into flats. The Applicant is the leaseholder of the raised ground floor flat.

2. The property is managed by the lessees themselves. They obtained the freehold in 2003. The Applicant was active in the management of the property between 2005 -2024. She resigned last year. There was apparently a falling out which are regrettably common in this sort of scenario. The Applicant says that she thought a manager was required but others did not agree. She herself had been paid to manage at least for the latter part of her tenure. This is an inescapable part of the context through which the Applicant's application must be viewed. It is her account that after her involvement she consulted lawyers and found out that previously the leaseholders (including her) had not been operating in accordance with the lease. It remains unclear why this penny did not drop before the Applicant resigned or why she didn't take advice which may have helped the penny drop.

3. Following the Applicant's resignation the leaseholders made the collective decision to carry out major works to the roof and property. They sought to demand the sums from the leaseholders in the same way that they had done during the Applicant's tenure. In the Applicant's case the sum demanded was £4200. The Applicant equipped with her new legal knowledge challenged the recoverability of the sums demanded as they had not been demanded in accordance with the lease.

4. The following are the material service charge provisions of the Lease:

(1) By clause 7(a)(i)(3) , that "Expenditure" *inter alia* included such provision for anticipated expenditure in respect of any of the services to be provided by the Landlord or any of the items referred to in the Fourth Schedule as the Landlord shall, in its reasonable discretion, consider fair and reasonable in the circumstances.

(2) By clause 7(a)(ii), that the Landlord's Financial Year was the period from 1 January in every year to 31 December of each year.

(3) By clause 7(b), that the Landlord shall, as soon as convenient after the end of each Financial Year, prepare an account showing the expenditure for that Financial Year and containing a fair summary of the various items comprising the Expenditure and, upon such account being certified by the Accountant (a copy of which shall be supplied to the Tenant), the same shall be conclusive

evidence, for the purposes of this Lease, of all matters of fact referred to in the account (save in the case of manifest error of fact or law).

(4) By clause 7(c), that on the first day of January in every year during the Term, the Tenant shall pay to the Landlord such a sum ("Advance Payment") in advance and on account of the Service Charge for the Financial Year then current as the Landlord shall, from time to time, specify as being, in its reasonable discretion, a fair and reasonable assessment of the likely Service Charge for that particular

(5) By clause 7(d) that if the Service Charge for any Financial Year shall:

i) exceed the Advance Payment for that Financial Year, the excess shall be paid by the Tenant to the Landlord within 14 days of demand

ii) be less than the Advance Payment for that Financial Year, the overpayment shall be credited to the Tenant against the next payment of the Service Charge.

(6) By clause 7(f), that if at any time and from time to time the Landlord shall require additional sums to enable the Landlord to provide any of the services in respect of any period then the Tenant covenants to pay to the Landlord the Tenant's proportion of the additional sums required to enable the Landlord to perform such services such sums to be certified in writing by the Accountant and such payment to be made by the Tenant within twenty-one days of a demand being served upon the Tenant by the Landlord

(7) By clauses 4(b) and 4(s)(iii) , provisions as to payment of interest and costs.

5. The Applicant says the sums demanded for the major works were not recoverable because the lease mechanisms were not followed. They were in effect ad-hoc demands for sums albeit they had been agreed at leaseholder meetings. The Applicant goes further and says that the lease mechanism was a condition precedent to lawful recovery.

6. For their part the Respondents are anxious to resolve the issue because the major works need to be carried out to the property. Mr Leckey Counsel for the Respondents was admirably candid in his acceptance that the lease provisions had not been followed in 2024. The demands were not in the form of advance payments as defined under the lease and if the work was required as additional sums they were not certified in writing by the accountant. There was a tenuous suggestion that the sums might have been certified by one of the leaseholders who is also an accountant but this was not vigorously pursued and we accept that the lease envisages clear separation between the accountant and the freeholder.

7. The Respondents sought to right the situation by serving an advance demand for all of the sums owed by the Applicant. This amounted to £31248 plus interests and costs. The Applicant has also challenged the validity of this demand. She says that the inclusion of the overdue amount of £4200 from the previous year constitutes an attempt to side - step the lease provisions. This seems to us to be a disingenuous argument. If the Applicant has failed to pay the sums due and failed to challenge the reasonableness of that charge the sum is owed albeit it may not be payable until the demand is made in accordance with the lease.

8. Of more importance was the argument that the advance demand was invalid because it was not accompanied by a summary of tenant's rights and obligations. Instead, a hyperlink was provided to a Lease Advice website where the summary was said to appear. At the hearing the link was used but was ineffective.

9. s.21B Landlord and Tenant Act 1985 states the following:

21B Notice to accompany demands for service charges

(1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.

(2) The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.

(4) Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(5) Regulations under subsection (2) may make different provision for different purposes.

(6) Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

10. In *Tingdene Holiday Parks Ltd v Cox* [2011] UKUT 310 (LC) at [13-14], it was held that (1) a summary provided 11 days late did not "accompany" the demand and (2) that providing the regulations (as opposed to just the text) was insufficient.

11. The fact that the Applicant was probably fully aware of the content of the summary does not affect the need for the information to be provided with each demand.

12. Mr Loveday for the Applicant said that the intention of the draftsman of the Act in 1985 must have been to ensure that the summary was provided in addition to the demand rather than in the form of a hyperlink because such shortcuts did not exist at that time. This overlooks the fact that the information provided itself has varied with amendment accordingly s.21B is not fixed in the 1985 context. Of more importance is the fact that that in this particular case it was not at all clear what form the information took because the hyperlink could not be opened. Moreover, we consider that "accompany" means more than attaching a hyperlink. It must mean providing the information separately rather than simply including it as part of the demand in the form of a hyperlink of dubious effectiveness.

13. We therefore reluctantly conclude that the 2025 advance demand did not comply with s.21B although the effect of this is suspensory only.

14. The point taken by the Applicant on the 2025 demand is an unattractive one in the context of urgent works for which her payment is crucial. It is hoped that she will adopt a more helpful and practical stance in the future.

15. We also find for the purposes of formality that the 2024 demands were invalid . This was largely accepted by the Respondents but the Applicant wanted a formal determination on this. Its not entirely clear why this was the case. In a different forum this might be for costs reasons but we are a no costs tribunal save for Rule 13 cases and this is not one of those. Had the Respondents included a sentence in the 2025 demand to the effect that this demand replaces all previous demands this would surely be adequate in dealing with the matter?

16. As a footnote we strongly urge the parties to seek to build bridges (possibly with the help of mediators) and agree a way forward. Disputes like this wreck any practical progress being made in terms of carrying out essential works for which all leaseholders are liable. If the parties get together and agree a common position this is clearly better than continued litigation which threatens financial ruin and future relationships.

17. Any consequent submissions in relation to s.20C Landlord and Tenant Act 1985 should be submitted in writing within 14 days of receipt of this decision.

Judge Shepherd

25th July 2025

RIGHTS OF APPEAL

1. 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.

2. 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.

3. 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.

4. 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.