



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

Case Reference	: HAV/00ML/LSC/2024/0642
Property	: 84 Southover Street Brighton BN2 9UE
Applicant	: Elahe Mirzadeh
Respondent	: Christopher Gargan, Peter McDonnell and Mark Anthony Ratcliffe t/a Utilec Properties Limited
Type of Application	: Determination of liability to pay and reasonableness of service charges; Sections 27A and 19 of the Landlord and Tenant Act 1985 (the Act); Costs limitation Section 20C and Paragraph 5A of the Commonhold and Leasehold Reform Act 2002 (CLARA)
Tribunal Members	: Judge C A Rai
Date type and venue of Hearing	: 10 July 2025; Paper Determination without a hearing Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules)
Date of Decision	: 16 July 2025

DECISION

1. The Tribunal determines that the service charges payable by the Applicant to the Respondent for the three years to which this application relates are:-

2017	£321.67
2018	£491.67
2019	£493.34
2. The Tribunal orders the Respondent to reimburse the Applicant the Application fee of £110 paid by her to HMCTS.
3. The Tribunal makes a section 20C Order that any costs incurred by the Respondent in relation to these proceedings are not relevant costs and cannot be recovered as service charges.
4. The Tribunal makes an order under paragraph 5A of schedule 11 to CLARA extinguishing the Applicant's liability, as lessee, to pay a particular administration charge in respect of litigation costs.

5. The reasons for the Tribunal's decision are set out below.

Background

6. The Application, dated 19 November 2024, was made by the Applicant for a determination of the service charges payable for 2017 to 2019, the "disputed years" for her leasehold flat at 84 Southover Street, Brighton, East Sussex BN2 9UE, the "Property".
7. The Property is on part of the ground floor of a terraced building divided into two flats. The building is located on the corner of the crossroads between Southover Street and Holland Street. The other flat in the building, numbered 84A, is on part of the ground floor and the whole of the first floor. Each flat has its own entrance. The entrance to 84 is on the corner of the building. The entrance to 84A is on Holland Street. There are no internal shared areas but a small, enclosed yard at the back of the building is shown on the lease plan. There are no communal internal areas.
8. The Applicant stated that she bought the Property in December 2016 from Christopher Patrick Owen Gargan, (Chris Gargan) the original lessee of the lease dated 23 March 2007, the "Lease". He is one of three joint freeholders described in the Lease as trading as Utilec Properties Limited [78].
9. No information has been provided to the tribunal to of the current land registry title or which verifies the identity of the freeholder. However, the service charge demands refer to the original lessor. Taking account of this, the Tribunal directs that Mark Anthony Ratcliffe is added as a joint Respondent (Rule 10) since hitherto his name has been omitted.
10. The Tribunal issued directions on receipt of the Application and set the case down for an oral hearing, but the Applicant made a successful case management application for the application to be determined on the papers. The Respondent has not objected to the Tribunal determining the application without a hearing.
11. The Tribunal has received a determination bundle comprising 107 pages, the "Bundle". References in this decision to numbers in square brackets refer to the numbered pages of the determination bundle provided by the Applicant.
12. Whilst the Tribunal has examined and considered all the documentation received it is has not referred to each piece of evidence taken into account in making this decision. The decision is intended to explain in a way, proportionate to the significance and complexity of the issues in dispute and the resources of the Tribunal, why it has reached its conclusions.

The Evidence

13. The Applicant told the Tribunal that she bought the Property in December 2016. She has disclosed copies of the leasehold property enquiries and replies, (LPE) [29] supplied to her conveyancer and dated 9 August 2016, signed by “Christopher Gargan Utilec”. Information recorded on the form shows that the freeholder, at that time, was the same freeholder who granted the Lease.
14. Three service charge demands are disclosed in the Bundle. Each relate to service charge years which coincide with calendar years.
 - a. The demand for service charges for 1.01.2017 to 31.12.2017 dated 06.12.2017 [25] is for £438.33.
 - b. The demand for service charges for 1.01.2018 to 31.12.2018 dated 11.10.2018 [26] is for £7,507.63.
 - c. The demand for service charges for 1.01.2019 to 31.12.2019 dated 05.12.2019 is for £603.33 [28].
15. All three demands, addressed to the Applicant at the Property, are from Mr C Cargan on behalf of the freeholder, whose names are separately listed at the bottom of the demand. Endorsed on both the 2017 and 2019 are two additional paragraphs, the first of which refers to the section 166 of CLARA, although the date of the Act is wrong (2012) and the second of which refers to sections 47 and 47 of the Landlord and Tenant Act 1987 and confirms the freeholder’s address for service of notices.
16. The Application is for the Tribunal to determine whether the service charges for 2017 – 2019 are reasonable. The Applicant has queried the cleaning costs, the general estate repairs and the accounting costs in every year these were demanded. She has also stated that she paid the amount demanded in 2017 (£438.33) and received an email from Luisa Baker dated 14 January 2020 confirming that payment was received [43]. Subsequently however the Respondent claimed that she had not paid the 2017 service charge.
17. The Applicant has also asked the “Tribunal to make orders under Section 20C of the Act and Paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 and to order that the Respondent reimburse the application fee.
18. The Applicant said that she received no service charge demands until she emailed KSD seeking a consent to let for her lender. Subsequently there were email exchanges in which the Respondent claimed it had sent demands to the Applicant by post. Copies of emails exchanged between 27 August 2019 and 3 February 2022 are in the bundle [37 -46]. The Applicant said the responses ceased for a year between January 2020 and January 2021. She has not received service charge demands for 2020 or any subsequent years. All her questions about the bank account number, to enable her to credit payments, quotations for the building works and justification of the charges on the 2017 – 2019 demands have not been answered.

19. In her statement the Applicant says that Utilec are part of the KSD group which has done the majority of the works and repairs to the Property [23].
20. By 2021, when no external decoration or maintenance had been done the Applicant repaired and painted her part of the building and has provided photographs [61 to 66]. In 2022 the Respondent repaired the exterior of the whole building and painted it yellow. The Applicant said it did not contact her or notify her about the works [67 – 69].
21. The Applicant stated that she had tried to contact the Ombudsman Redress Provider but has been unable to find out if the Respondent is registered with a redress scheme.
22. Copies of her emails disclosed in the bundle record numerous unsuccessful requests by the Applicant to arrange meetings with the freeholder, obtain bank account details, obtain freeholder consent to letting to satisfy the Applicant's lender and obtain details of the any redress scheme which applies to the management business undertaken by the freeholder.
23. The Applicant also stated that the Respondent's two emails in response to this application, both contain misleading submissions. Firstly, she has provided an email acknowledging that she paid the 2017 service charge demand. Secondly, she has provided evidence of bank transfers for ground rents. She denied that she has not responded to correspondence received from the Respondent.
24. The Applicant referred the tribunal to section 20B of the Act and which requires that service charges are demanded within 18 months of expenditure and claimed that the Respondent failed to comply with this requirement.
25. The Respondent was directed (by paragraph 19 of the tribunal directions dated 14 April 2025), to send service charge accounts and supporting invoices for each of the disputed years [19]. The Respondent failed to comply with this direction, or any of the other tribunal directions including the provision of its statement in response to the application.
26. The Applicant has provided a statement of case with some supporting documents. The Respondent has provided two emails.
27. Following the issue of the Application Chris Gargan sent the Applicant an email dated 15 January 2025 [59] in which he says he is stating the facts. He said that the Applicant bought the flat in December 2016. He said that she was issued with "the correct notice to leaseholders" as per the parameters of the Commonhold and Leasehold Reform Act 2012 (sic). However, it took you over 4 years to ever reply to our countless letters of Notice and messages of correspondence".
28. Chris Gargan claimed that the Respondent received no ground rent or service charge payments until 2021 and that even then these were not paid up in full. He claimed that the Applicant was made fully aware of

the structural issues of the fabric of the building which required emergency attentions (sic) which she was partly responsible for but refused to send us acknowledgements of receipt of correspondence for any liability towards payments to these (sic). He promised to re-send all the pertinent documents for the Tribunal's consideration in due course and the latest Notice to Leaseholders correspondence.

29. Subsequently the Respondent sent an email to both Tribunal and the Applicant dated 25 April 2025. It was sent by Luisa Baker and said "As per the new timeline and Directions to us set out in an email from xxxxx (a tribunal officer), please find enclosed the following:
 - a. Service Charge Demands for the years 2017, 2018 and 2019.
 - b. Copies of the Buildings Insurance Policy for the same.
 - c. A financial statement for the Freeholder Building works expenditures from the Head of Finance." [77].
30. The service charge demands are in the bundle.[25 – 28]. There is no copy of the buildings insurance policy in the bundle, but the premium has not been disputed. The financial statement is a single page dated 25 April 2025 titled "Statement of account pertaining to freeholder building works expenditure as undertaken by KDS Support Services at both 84 and 84A Southover Street BN2 9UE from 2017 through to 2024. The years are listed and beside each year is a figure. Underneath the line for 2024 is the following statement. "all the above costs have been cleared and paid for and strictly apply to freeholder building works as undertaken at 84 and 84A Southover Street Brighton BN2 9UE. The statement is signed by Manish Sharma (Head of Finance KSD Support Services Ltd).

The Lease and the Law

31. The contractual liabilities of the parties regarding the payment of service charges are contained in the Lease. The Respondent is the original freeholder. The Applicant purchased the Property from the original tenant, who owns a share of the freehold [59] and is contractually liable to comply with the lessee covenants in the Lease.
32. In the Lease, the lessee covenants with the lessor to keep it indemnified against costs incurred by paying **one third of the total costs** incurred by the lessor in connection with matters referred to in Clause 5(iii) [89]. (Tribunal's emphasis). Clause 5 is the lessors covenant which provides that the lessor will maintain and keep in good and substantial repair and condition the structure of the building and service installations. It also covenants to decorate the exterior of the building as often and in such manner as the lessor reasonably thinks fit [93].
33. The Tribunal's jurisdiction to determine service charges is broadly contained in sections 27A, 18 and 19 of the Act. It can decide whether a service charge has been demanded in compliance with the legislation, to whom and by whom it is payable and assess the reasonableness of the charge and the works, if appropriate, to which the charge relates, or the reasonableness of any services provided for which a charge is made.

34. In addition to the application for a determination as to the reasonableness of the service charges the Applicant has asked the tribunal to make cost limitation orders under section 20C of the Act and paragraph 5A of schedule 11 to CLARA.
35. Extracts from the relevant legislation are contained in the Schedule to this decision.

Reasons for the Decision

36. The Applicant disputes her liability to pay some of the service charges demanded for 2017 – 2018, (the disputed years). The demands for the disputed years are in bundle. The Tribunal does not know if the Applicant received other information with these demands. No copy of a summary of the tenants' rights and obligations which must accompany a demand for payment of service charges (Section 21B of the Act) has been reproduced in the bundle but neither party has referred to this requirement.

2017

37. The Applicant has stated that she does not know why the demand for 2017 refers to a “brought forward” figure of £8,710 [25]. This figure has not been explained by the Respondent. No reference was made to it when Mr Gargan completed the LPE in August 2016, at which time he owned the Property. There is no explanation of it in any of the papers in the bundle.
38. The Applicant said that she has paid the £438.33 demanded. That payment was acknowledged by the Respondent [43]. The £8,710, referred to above, although shown on the demand, was not added to the “total due” shown on the 2017 demand.
39. The Applicant is unwilling to pay towards cleaning costs because there are no internal common parts which can be cleaned. She also disputes the service charges for accounting and general repairs.
40. The Tribunal has concluded, relying on the Lease plan, there are no internal common areas in the building. Therefore, it determines that cleaning costs are not payable by the Applicant.
41. The Respondent has failed to comply with the Tribunal direction and supply any form of accounts, so the accounting charge is also disallowed.
42. The tribunal determines that the Applicant is liable to pay service charges of **£321.67** to the Respondent for 2017.

2018

43. The Tribunal disallows the costs for cleaning and accounting for the same reasons as it disallowed them for 2017. The remaining disputed item is the charge for “general repairs” [26].
44. The Applicant has stated that she was not consulted about the proposed works referred on the 2018 service charge demand. Although the demand referred to “proposed structural and remedial issues” and

notified her of her right to provide alternative quotations for the same works it did not itemise the works [26]. She said that although the LPE referred to anticipated works she has not received any description of the proposed works or an explanation as to why the works were necessary.

45. The lease provides for the Applicant to pay a one third share of the costs incurred by the Landlord in complying with its obligations to broadly decorate and repair the Property. The Applicant also suggests that she raised concerns with the Respondent because she had not received service charge demands. She has provided copies of emails dated between 27 August 2019 [42] and 15 January 2025 [59] exchanged with Chris Gargan (one of the Respondents) and Luisa Baker (who has corresponded with her on behalf of the KSD group).
46. The Applicant refutes that she has any liability to pay for the works referred to on the 2018 demand because the Respondent has not sent a consultation notice which identified the proposed works, explained why the works were necessary, provided quotations and offered her an opportunity to obtain alternate quotations. When no work had been carried out by 2021, the Applicant painted and decorated her part of the building. She told the tribunal that, much later in 2022, the Respondent repainted the external walls of the building yellow without consulting her [56].
47. The Tribunal, accepting that there is no evidence of any consultation with the Applicant regarding the works and decoration, has decided that Respondent can recover £250 from the Applicant towards general estate repairs is which the maximum contribution which can be recovered from a lessee unless the landlord has complied with the Service Charge (Consultation Requirements) (England) Regulations 2003 [SI 1987] (the Regulations).
48. The Respondent has not complied with the Regulations.
49. The Tribunal determines that the Applicant is liable to pay service charges of **£491.67** to the Respondent in 2018.

2019

50. The Tribunal disallows the costs for cleaning and accounting for the same reasons as it did in 2017 and 2018.
51. The remaining disputed item is the charge for “general repairs” [26].
52. The Respondent has invoiced £293.33. The Tribunal accepting that there is no evidence of any consultation with the Applicant regarding repairs has decided that Respondent can only recover £250 from the Applicant towards general estate repairs being the maximum contribution recoverable from a lessee unless the landlord has complied with the Service Charge (Consultation Requirements) (England) Regulations 2003 [SI 1987] (the Regulations).
53. The Respondent has not complied with the Regulations.

54. The Tribunal determines that the Applicant is liable to pay service charges of **£493.34** to the Respondent in 2018.

Costs

55. The Respondent failed to comply with the Tribunal directions. Although it has sent two emails to the Applicant, one of which was copied to the Tribunal, the Applicant alleged that the content was misleading.
56. The Applicant has provided an email from the Respondent confirming receipt of payment of the service charges demanded for 2017. The Respondent has failed to explain the sum carried forward on the 2017 demand despite the property having been owned by Chris Gargan who is part owner of the freehold. Having examined the Applicant's evidence, the Tribunal agrees.
57. The Respondent has not complied with the Regulations. Copies of the emails provided by the Applicant show that emails were exchanged between the Applicant and Respondent in August 2019, but the Respondent wrongly claims that the Applicant paid nothing for four years.
58. The Tribunal **orders the Respondent to reimburse the Application Fee of £110 paid by the Respondent to HMCTS within 14 days of the date of this decision.**
59. Since it has found in the Applicant's favour the Tribunal makes an order under section 20C of the Act that all costs incurred or to be incurred by the Respondent in connection with these 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.
60. For the same reason, the Tribunal makes an order under paragraph 5A of Schedule 11 to CLARA extinguishing the Applicant's liability as tenant to pay a particular administration charge in respect of litigation costs.

Generally

61. The Tribunal's jurisdiction under the Act in relation to service charges is set out in section 27A of the Act. It has no jurisdiction to direct the Respondent to send "all service charge letters from 2020", which the Applicant claims she has not received.
62. If the Respondent fails to comply with the Regulations the Applicant's liability to contribute towards the costs of repairs will be capped at the appropriate amount prescribed or determined in accordance with the regulations set by the secretary of state and applicable in each service charge year. The current appropriate amount referred to in clause 6 of the Regulations is £250.

63. Under section 21B of the Act a demand for the payment of a service charge must be accompanied with a summary of the rights and obligations of tenants of dwellings in relation to service charges in the form of the Service Charges (Summary of Rights and Obligations and Transitional Provision) (England) Regulations 2007 [SI2007/1257. The Tribunal has seen no evidence showing that the Respondent complied with this provision. If it did not, the Applicant would be entitled to withhold payment of service charges unless and until the Respondent complies.
64. The Applicant has already referred the Respondent to section 20B of the Act which provides that a tenant shall not be liable for any relevant costs incurred more than 18 months before a demand is for payment is served on the tenant.
65. The Tribunal has annexed a summary showing how it calculated the service charges it determined are payable for the dispute years and which also summarises costs which the Respondent claims to have spent on works to the Property. Whilst it is not appropriate for the Tribunal to investigate or estimate the values of the two flats which comprise the building the total alleged expenditure appears substantial in relation to a building which comprises two small flats.

Judge C A Rai

Respondents Costs 25-Apr-25 Page 77

Email in response to application

			Demands	Pages 26,27 & 28
2017			240.00	
2018	22,223.10		20,000.00	
2019	1,419.00	23,642.10	880.00	21,120.00
2020	3,279.00			
2021	21,700.00			
2022	8,910.00			
2023	6,111.00			
2024	4,910.00			
Total	68,552.10			

Service charges demanded Pages 26.27 & 28

	2017 Demanded	Share	Allowed	2018 Demanded	Share	Allowed	2019 Demanded	Share	Allowed
Management	500.00	166.67	166.67	500.00	166.67	166.67	500.00	166.67	166.67
Estate Repairs	240.00	80.00	80.00	20,000.00	6,666.67	250.00	880.00	293.33	250.00
Buildings Insurance	225.00	75.00	75.00	225.00	75.00	75.00	230.00	76.67	76.67
Accounting	200.00	66.67		200.00	66.67		200.00	66.67	
Cleaning	150.00	50.00		150.00	50.00				
Total	1,315.00	438.33	321.67	21,075.00	7,025.00	491.67	1,810.00	603.33	493.34

Appendix

27A Liability to pay service charges: jurisdiction

(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]² 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.

19.— Limitation of service charges: reasonableness.

(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 provision 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.

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 leasehold valuation tribunal [or the First-tier 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 persons or persons specified in the application

(2) ...

(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

Para 5A Schedule 11 CLARA

(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.

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

Appeals

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide

whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.