



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

Case Reference	: HAV/43UB/LSC/2025/0623
The Property	: 106 Upper Farm Road, West Molesey, KT8 2QU
Applicant	: Mr Amin Zonoozi
Representative	:
Respondent	: Assehold Limited
Representative	: Mrs Esther Gurvits of Eagerstates Limited
Type of Application	: Determination of liability to pay and reasonableness of service charges section 27A Landlord and Tenant Act 1985 and of Administration Charges Paragraph 5A Schedule 11 Commonhold and Leasehold Reform Act 2002
Tribunal Members	: Judge N Jutton, Mr Paul Smith FRICS, Ms T. Wong.
Date and Venue of Hearing	: 30 October 2025, Havant Justice Centre, The Court House, Elmleigh Road, Havant, PO9 2AL
Date of Decision	: 6 November 2025

DECISION

1. **Background**

2. By an Application dated 11 February 2025 the Applicant seeks a determination of liability to pay and reasonableness of service charges relating to insurance and other associated administration charges for the service charge year 2024/25. The Applicant also seek orders pursuant to Section 20C of the Landlord and Tenant Act 1985 and Paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

3. The premises to which this application relates is a purpose built block of 3 residential flats. The Applicant is the lessee of the ground floor flat known as 106 Upper Farm Road, West Molesey, KT8 2QU (the Property). The Applicant holds the Property under the terms of a lease dated 12 September 2014 and made between Sivakumuthini Namthakumar (1) and the Applicant (2) (the Lease). The Respondent is the current lessor under the terms of the Lease.

4. The application identifies the following service charges and administration charges that are disputed by the Applicant (The Disputed Items):

1. Insurance Premium (Insurance Rent) £491.44
2. Interest Charges £12.84, £3.63, £3.47, £2.33, £31.80.
3. Notice of Proceedings Fee £150.00.
4. Surveyors Fees re Insurance Valuation £590.0
5. Monitoring Fee £108.00
6. Debt Recovery Agency Fees £243.00, £474.00, £480.00.

5. There was before the Tribunal a paginated bundle of documents of some 243 pages which included the application, the Lease, statements of case, witness statements, a demand for insurance rent, an Allianz insurance schedule and policy, alternative insurance quotes and other documents. References to page numbers in this decision are references to page numbers in that bundle.

6. **The Hearing**

7. The hearing was attended by the Applicant, Mr Amin Zonoozi and by Mrs Esther Gurvits a Director of the Respondent's managing agents Eagerstates Limited.

8. **The Law**

Service Charges

9. Section 27A of the Landlord and Tenant Act 1985 (the 1985 Act) provides that an application may be made to this Tribunal to determine whether a service charge is payable and if so the amount which is payable. Section 18 of the 1985 Act provides that a service charge is an amount payable by a tenant of a dwelling as part of or in addition to rent in respect of, amongst other things, the

cost of insurance and the landlord's costs of management. Section 19 of the 1985 Act provides that relevant costs that make up the service charge are only payable to the extent that they are reasonably incurred.

Administration Charges

10. The statutory provisions relevant to administration charge applications can be found in Part 1 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 (the 2002 Act). An administration charge is defined to include an amount payable by a tenant of dwelling as part of or in addition to the rent which is payable directly or indirectly '*in connection with a breach, (or alleged breach) of a covenant or condition in his lease*' (paragraph 1(1)(d)).
11. Paragraph 1(3) defines a variable administration charge as an administration charge payable by the tenant which is neither specified in his lease or calculated in accordance with a formula specified in his lease.
12. Paragraph 2 provides that a variable administration charge is payable only to the extent that the amount of the charge is reasonable.
13. Paragraph 5 provides that an application can be made to this Tribunal for a determination as to whether an administration charge is payable and if so as to the person by whom it is payable, the person to whom it is payable, the amount which is payable, the date at or by which it is payable and the manner in which it is payable. An application can be made whether or not payment has been made but an application cannot be made in respect of a matter which the tenant has agreed or admitted. A tenant is not to be taken to have agreed or admitted any matter by reason only of having made a payment.
14. **The Lease**
15. In the bundle is a copy of the Lease [207-243]. The Lease provides for the landlord to insure 'the Building'. Clause 2.1 of the 6th Schedule provides that the landlord is to:
'... effect and maintain insurance of the Building against loss or damage caused by any of the Insured Risks with reputable insurers, on fair and reasonable terms that represent value for money, for an amount not less than the Reinstatement Cost ...'
16. The 'Building' is defined as: '*the land and building known as 104 and 106 Upper Farm Road, West Molesey, Surrey KT8 2QY registered at HM Land Registry with title number SY805612*'.
17. The Lease provides for the tenant to pay to the landlord the 'Insurance Rent' being: '*one third of the cost of any premiums (including any IPT) that the Landlord expands (after any discount or commission is allowed or paid to the Landlord), and any fees and other expenses that the Landlord reasonably incurs, in effecting and maintaining insurance of the Building in accordance with its obligations in paragraph 2 of Schedule 6 including any professional fees for carrying out any insurance valuation of the Reinstatement Cost*'. (clause 1.1 Definitions).

18. 'Reinstatement Cost Value' is defined as: *'the full cost of reinstatement of the Building as reasonably determined by the Landlord from time to time, taking into account inflation of building costs and including any costs of demolition, site clearance, site protection, shoring up, professional fees and expenses and the costs of any other work to the Building that may be required by law and any VAT on any such costs, fees and expenses'*.
19. Schedule 4 to the lease contains covenants made by the tenant (the Tenant Covenants). They include a covenant to pay the Insurance Rent. Clause 3 of the schedule provides for the tenant to pay interest (at the 'Default Interest Rate') to the landlord on any rent, insurance rent, or other payment due under the Lease not paid within 7 days of the date that it is due. Such interest to accrue on a daily basis. The Default Interest Rate is defined as 4% above the base rate from time to time of the Bank of England.
20. Clause 6 of the 4th Schedule provides for the tenant to pay to the landlord *'..... on demand the costs and expenses (including any solicitors', surveyors' or other professionals' fees, costs and expenses and any VAT on them) assessed on a full indemnity basis incurred by the landlord (both during and after the end of the Term) in connection with or in contemplation of any of the following:*
- (a) *the enforcement of any of the Tenants Covenants;*
 - (b) *preparing and serving any notice in connection with this lease under section 146 or 147 of the Law of Property Act 1925 or taking any proceedings under either of those sections, notwithstanding that forfeiture is avoided otherwise than by relief granted by the court;*
 - (c) *.....*
 - (d) *.....*
 - (e) *.....*
21. Clause 15 of the 4th Schedule provides for the tenant: *'To indemnify the Landlord against all liabilities, expenses, costs (including but not limited to any solicitors', surveyors' or other professionals' costs and expenses, and any VAT on them, assessed on a full indemnity basis), claims, damages and losses (including but not limited to any diminution in the value of the Landlord's interest in the Building and loss of amenity of the Building) suffered or incurred by the Landlord arising out of or in connection with:*
- (a) *any breach of any of the Tenant Covenants;*
 - (b) *.....*
22. **The Disputed Items**
23. At the hearing each of the Disputed Items was addressed in turn.
24. **The Insurance Rent £491.44**
25. **The Applicant's Case**
26. The Applicant explained that he purchased the Property in 2014. The freehold interest had been transferred to the Respondent in 2024. Up until that time the insurance rent paid by him had always been around the same

sum. He referred to an invoice from the previous freeholder dated 19 April 2022 [152] which refers to an insurance contribution for the period 1 May 2022 to 30 April 2023 of £255.20.

27. The Applicant was therefore surprised to receive an insurance renewal notice from the Respondents managing agents, Eagerstates Ltd dated 17 April 2024 [22] in the sum of £491.44. The invoice provides that the 'declared value' is £700,000, the amount of the premium is £1232.00, there is then added a 'broker fee' of £50 and a 'management fee' of £193.20 making a total of £1474.30 of which the Applicant's share is stated to be £491.44.
28. The Applicants says that he didn't understand the reason for the increase. There was, he said, no explanation from the Respondent. That he was subsequently told that the insurance cover had been too low and had been increased.
29. The Applicant contends that no breakdown of the increased insurance premium was provided to him, that no evidence of market comparisons or competitive tendering process was provided and that there is no justification to increase the amount of insurance cover. As he puts it in his application form: *'The sudden increase to £491.44 is excessive and lacks justification'*.
30. Through an insurance broker, Simply Business, the Applicant arranged insurance of his own flat in September 2025. There is a copy of the renewal invoice, the certificate of insurance, the policy schedule and the policy terms at 153-201. It is for the period 10 September 2025 to 9 September 2026. The total premium including Insurance Premium Tax is £141.54. The type of property is described as *'individual flat – in purpose built block or building'*. Property damage to buildings is not included in the cover. The policy demonstrates, the Applicant says in his response to the Respondent's statement of case [145] that comparable cover could be obtained at a significantly lower premium.
31. The Applicant also refers to a form of invoice from a company called Stride Insurance dated 14 April 2022 addressed to him [151]. The total premium quoted including IPT is £765.59. The Policy Term is stated as 01/04/2025 – 30/04/2026. He describes the invoice as an official quotation facilitated through a UK authorised broker. He states that although the document does not provide a figure for the sum insured he had requested a quote on the same parameters as had previously been declared for insurance at the Property which initially provided for cover in the region of £400,000. The Applicant told the Tribunal that he didn't provided Stride Insurance with a reinstatement value but just asked them to update the insurance quotation based on historic information that they already had.
32. The Applicant felt that given the substantial rise in the amount of the insurance premium that there should have been some form of initial discussion or consultation between him and the Respondent before the insurance cover was arranged.

33. The Respondent's Case

34. Mrs Gurvits told the Tribunal that as a matter of good estate management it was the Respondent's policy to review the amount of insurance cover on its properties on a regular basis, she said usually around every five years. That involved commissioning a valuation of the reinstatement value of the building so as to ascertain the amount of insurance cover needed. A landlord she said might be regarded as 'careless' if it did not ensure that its properties were adequately insured.
35. That when the Respondent acquired the Property it commissioned a valuation from a surveyor for insurance purposes. There is a copy of the surveyors valuation at 130 – 139. It is dated September 2024. It is from JMC Surveyors and Property Consultants Limited. The basis of the assessment is described as utilising the '*standard RICS Building Cost Information Service (BCIS) reinstatement cost for insurance purposes as well as our own records of construction and material cost based on similar completed projects*'. The report states that it reflects the surveyor's opinion of the building insurance reinstatement value, that it is for building insurance and is not appropriate for any purpose other than insurance.
36. The report recommends that the 'site' be insured for a minimum of £700,000 if VAT registered and if not VAT registered for a minimum of £850,000.
37. The Respondents managing agents instructed its brokers to arrange insurance cover accordingly and there is in the bundle an insurance certificate and policy with Allianz Insurance [24 – 129] providing for cover from 11/06/ 2024 to 31/05/2026 based upon a declared value of £700,000.
38. The insurance brokers instructed by the Respondent were a company called HeathWoods Insurance and Financial services Ltd. There is a letter from that company dated 17 July to 2025 to the Respondent in the bundle [25] which refers to alternative quotations obtained from 3 other insurers all of which were higher than that obtained from Allianz Insurance.
39. The reason why the insurance premium increased, Mrs Gurvits said, was because of the increase in the sum insured. The higher the insurance cover, the higher the premium. As Mrs Gurvits put it, 2 bottles of milk cost more than 1 bottle of milk. Mrs Gurvits said that she had made great efforts to explain the reason for the insurance premium increase to the Applicant.
40. In answer to a question from the Tribunal neither party was able to say whether, and if so when, the Property had been valued for insurance purposes prior to September 2024.
41. The Tribunal referred Mrs Gurvits to the letter from the insurance brokers, HeathWoods [25], dated 17 July 25 which makes reference to a broker fee of £50 and states that the insurance premium figure of £1232.00 was inclusive of insurance premium tax and broker fee. The Tribunal suggested to Mrs Gurvits that there may have been an error made on the Insurance Renewal Notice dated 17 April 2024 [22] addressed the Respondent where the

insurance premium was stated to be £1232.00 and to that was added the broker fee of £50. Mrs Gurvits told the Tribunal that an error had been made by the broker. That the premium of £1232.00 did not include the broker fee despite what the letter said.

42. The Tribunal also referred Mrs Gurvits to the management fee of £193.20 contained within the insurance renewal notice dated 17 April 2024. Mrs Gurvits explained that this was a fee charged by the managing agents for arranging insurance cover and was calculated she believed as a percentage of the insurance premium. The Tribunal asked Mrs Gurvits whether this was a fee that had been incurred by the Respondent which it then sought to recover as part of Insurance Rent from the lessees. Mrs Gurvitz said that the management fee had been incurred by the Respondent but was not able to produce evidence thereof for example in the form of an invoice from the managing agents to the Respondent.
43. The Respondent says that the insurance policy arranged by the Applicant on his flat through Simply Business was not a like for like comparison with the insurance arranged with Allianz Insurance. The policy arranged by the Applicant was just for his flat and not for the entire building. It didn't appear to include cover for damage to the Building.
44. Similarly, Mrs Gurvits said that the Tribunal should not give any credence to the form of invoice/quotation form Stride Insurance [151] produced by the Applicant. She questioned the validity of the document. She made the point that it was dated 14 April 2022 but covered a policy term of 01/05/2025 – 30/04/2026. In its statement of case the Respondent makes the point that the document doesn't specify the sum insured making it impossible to assess whether it would provide adequate cover for the Building. That it lacked the necessary detail and supporting documentation to be considered a genuine or comparable alternative.
45. **The Tribunal's Decision.**
46. The Applicant says that the amount of Insurance Rent paid historically by him from the time that his lease was granted in 2014 to the time that the Respondent acquired the freehold interest stayed more or less the same. Neither party were able to say whether there had been a valuation for insurance purposes since the date of the lease to the date of the valuation commissioned by the Respondent in September 2024. The Tribunal suspects there may not have been.
47. It was in the view of the Tribunal good practice and in accordance with the terms of the Lease for the Respondent to commission a valuation of the reinstatement cost in September 2024. In light of that valuation the amount of insurance cover appears to have been not insignificantly increased. The effect was to increase the amount of insurance premium. That is why there was a significant increase in the amount of Insurance Rent demanded from the Applicant.

48. The Tribunal is satisfied from the evidence before it that the amount of the insurance premium for the policy arranged with Allianz Insurance was reasonably incurred. The Tribunal notes from the letter from the insurance brokers Heathwoods dated 17 July 2025 [25] that the insurance market appears to have been tested by the brokers as set out in that letter, before the Allianz Insurance quote was accepted.
49. The insurance cover that the Respondent arranged for his own flat through Simply Business is not comparable. It covers just the Applicant's flat. It is not insurance cover for the Building. It is not a like for like comparison with the Allianz Insurance cover.
50. Nor does the Stride Insurance quotation assist the Applicant. It doesn't state the sum insured or more particularly the reinstatement cost upon which it is based. The Applicant's Response to the Respondent's Statement of Case [145] suggests that the quotation was based upon a value closer to £400,000. As such it is not a comparable quotation.
51. Accordingly the Tribunal Determines that the insurance premium of £1232.00 incurred by the Respondent with Allianz Insurance for the period 11 June 2024 to 31 May 2025 was reasonably incurred and thus the amount of Insurance Rent payable by the Applicant in that regard, being one third of that sum, is £410.67.
52. The Insurance Renewal Notice served on the Applicant dated 17 April 2024 [22] seeks to recover two additional sums as part of the Insurance Rent payable by the Applicant. Firstly a broker fee of £50.00 and secondly a management fee of £193.20.
53. The Tribunal determines that the broker fee of £50.00 (of which the Applicant's one third share would be £16.67) should not form part of the Insurance Rent. The letter from the insurance brokers Heathwoods dated 17 July 2025 [25] makes it clear that the broker fee of £50 is included within the figure of £1232.00. The Tribunal doesn't accept Mrs Gurvit's contention that an error was made in that letter.
54. Further the definition in the Lease of Insurance Rent as set out at paragraph 17 above refers to fees and other expenses that the landlord reasonably incurs, in effecting and maintaining insurance of the Building (emphasis added). There was no evidence before the Tribunal to suggest that the broker fee of £50.00 had been incurred by the Respondent for example in the form of an invoice for that fee addressed to the Respondent.
55. Similarly the Tribunal determines that the management fee of £193.20 (of which the Applicant's one third share would be £64.40) should not form part of the Insurance Rent. There was no evidence before the Tribunal that that was a management fee incurred by the Respondent again for example in the form of an invoice from the managing agent addressed to the Respondent.

56. For those reasons the Tribunal determines that the amount of Insurance Rent payable by the Applicant to the Respondent for the period of 11 June 2024 to 31 May 2025 is £410.67.

57. **Surveyors Fees £590.00.**

58. **The Applicant's Case**

59. The invoice from JMC Surveyors and Property Consultants Ltd addressed to the Respondents' managing agents dated 11 September 2024 is at page 140. It's for total sum including VAT of £1500. The work carried out is described as: *'Professional services in inspecting the above premises and subsequently preparing an insurance Reinstatement Cost Assessment'*.

60. There is in addition an invoice from the Respondents' managing agents, Eagerstates Ltd, dated 1 November 2024 at page 141, for the total sum including VAT of £270 described as: *'Admin fee for surveyor to prepare insurance reinstatement assessment'*.

61. The total of the two invoices inclusive of VAT is £1770.00 The Respondent seeks to recover one third of that sum from the Applicant as part of the Insurance Rent payable by him under the terms of the Lease. That is for the sum of £590.

62. The Applicant said he didn't dispute whether or not the amount of the surveyor's fee was reasonable. He contended that the Lease didn't make provision for the recovery of the surveyors fees or the managing agents fees for instructing the surveyor from him as part of the Insurance Rent. The Applicant says that he was not consulted nor given the opportunity to review the surveyors report. In his form of written response to the Applicant's case and witness statement [145] he says [Point 3c – 146] : *'The lease may allow surveyor costs, but the specific charges included in the service charges must be clearly itemised and justified. Vague or retrospective explanations are not sufficient to meet reasonableness standards'*.

63. **The Respondent's Case.**

64. Mrs Gurvits told the Tribunal that the administration fee of £270 [141] was the managing agents fees for instructing surveyors, checking the lease terms, chasing the surveyors for the production of the report, discussing the report with the surveyor, raising queries, advising the Respondent and invoicing leaseholders.

65. The Respondent says that the surveyors costs including managing agents fees for instructing the surveyor are recoverable from Applicant under the terms of the Lease as part of the Insurance Rent.

66. **The Tribunal's Decision.**

67. The definition of Insurance Rent in the Lease, as set out at paragraph 17 above, specifically provides that it includes any professional fees incurred by

the Respondent for carrying out any insurance valuation of the Reinstatement Cost. In the view of the Tribunal that provision is clear. The Respondent can recover as part of the Insurance Rent professional fees that it incurs in instructing a surveyor to carry out a Reinstatement Cost Valuation. Further, in the view of the Tribunal the definition of Insurance Rent is sufficiently broad to allow the Respondent to recover fees reasonably incurred by its managing agents in instructing a surveyor to carry out a valuation. The definition provides that it covers ‘... *any fees and other expenses that the Landlord reasonably incurs, in effecting and maintaining insurance of the Building ...*’. Managing agents fees incurred to instruct a surveyor to produce a valuation for insurance purposes do, in the view of the Tribunal, form part of and fall within the description of fees and expenses reasonably incurred in effecting and maintaining the insurance of the Building. The invoice at page 141 of the bundle dated 1 November 2024 from the Respondents managing agents Eagerstates Ltd addressed to the Respondent in the sum of £270 is evidence of those fees being incurred by the Respondent.

68. The Applicant doesn’t challenge the amount of the surveyors fees or the amount of the managing agents fees for instructing the surveyor. The Tribunal is satisfied from the evidence before it that the both are reasonable in amount.
69. The Tribunal determines that the sum of £590.00 in respect of surveyors fees is payable by the Applicant to the Respondent.
70. **Interest Charges £12.84, £3.63, £3.47, £2.33, £31.80, Total: £54.07.**
71. **The Applicant’s Case.**
72. Unhelpfully neither party saw fit to include the demands for payment of interest charges or the calculation of the amount of the interest charges in the hearing bundle. The Tribunal understands that interest charges are calculated against the sums contained in the Insurance Renewal Notice dated 17 April 2024 [22].
73. The Applicant said that he did not dispute the interest calculation. He felt it was wrong however for interest to be applied against charges which were disputed or subject to challenge or query. In his statement of case [148] he suggests that the Lease did not permit recovery of interest charges in those circumstances. He contends that further time should have been given to him before interest charges were imposed. He told the Tribunal that his application was not about a refusal to pay but about what he considered to be questions of fairness and reasonableness. That the claim for interest charges flowed from the Insurance Rent figure produced to him which he disputed and which he said lacked any form of explanation. That it would be unreasonable for him to pay interest charges on sums which he reasonably disputed or at least sort a better explanation of.

74. **The Respondent's Case.**

75. Mrs Gurvits told the Tribunal that interest was recoverable from the Applicant under the terms of the Lease. That the interest was charged at the Default Interest Rate as defined in the Lease [211] being 4% per annum above the base rate from time to time of the Bank of England. Mrs Gurvits said that the Respondents managing agents had sent the Applicant multiple emails explaining the reason for the increase in the amount of Insurance Rent and advising the Applicant that if payment were not made interest would be charged in accordance with the terms of the Lease.

76. **The Tribunal's Decision.**

77. Clause 3 of Schedule 4 to the Lease provides that the lessee will pay interest to the landlord at the Default Interest Rate on any Rent, Insurance Rent, or other payment due under the terms of the Lease not paid within 7 days of the date that it is due. Interest to accrue on a daily basis.

78. As stated, the Default Interest Rate is defined in the Lease to be 4% above the base rate of the Bank of England from time to time. The Applicant doesn't dispute the calculation of interest. The fact that the Applicant disputed the amount of Insurance Rent does not allow him to avoid payment of interest at the Default Interest Rate on the amount of Insurance Rent found to be due.

79. The amount of Insurance Rent sought by the Respondent was £491.44 [22]. The Tribunal has reduced that sum to £410.67, a reduction of 16.45%. The best that the Tribunal can do, taking a broad brush approach, is to reduce the amount of the interest claimed by the same percentage. That is reduction of the total interest claimed from £54.07 to £45.18.

80. The Tribunal Determines that as to the amount of interest demanded by the Respondent, the amount payable by the Applicant is £45.18.

81. **Notice of Proceedings Fee £150.00.**

82. **The Applicant's Case.**

83. The Applicant queries what this fee is for. Further he says that the Respondent was wrong to impose a fee given his attempts to communicate with the Respondents' managing agents and his willingness to find resolution of the issues between them. He describes the fee in his statement of case [148] as being 'retaliatory'. He contends that the Lease does not expressly allow for the recovery of such a fee. He says that no breakdown or explanation of the fee was provided.

84. **The Respondent's Case.**

85. Mrs Gurvits told the Tribunal that the fee was charged for writing a letter to a leaseholder who hadn't paid sums due from them. A form of letter before action. She said that the Lease did provide for the recovery of such a fee. She referred to clause 6 of the 4th Schedule to Lease (set out at paragraph 20

above). This was she said a fee incurred by the Respondent in connection with or in contemplation of the enforcement of the Tenant Covenants in the Lease and/or in connection with or contemplation of the service of a notice under section 146 of the Law of Property Act 1925.

86. The Tribunal asked Mrs Gurvits whether the fee had been incurred by the Respondent. Was there for example, an invoice from the managing agents to the Respondent to recover the fee. Mrs Gurvits told the Tribunal that the fee had been incurred by the Respondent but that there was no invoice from the managing agents to the Respondent in the hearing bundle. She contended that the fee was reasonable in amount and had been incurred in August 2024.

87. **The Tribunal's Decision.**

88. The Tribunal accepts that a fee reasonably incurred by the Respondent lessor for instructing its managing agents to write a form of letter before action to a lessee who was in arrears of payments due under the Lease would be recoverable from the lessee under clause 6 of the 4th Schedule to the Lease as a fee cost or expense incurred by the Respondent in connection with the enforcement of the Tenants Covenants.

89. The key wording in clause 6 of the 4th Schedule is that it applies to fees costs and expenses 'incurred' by the landlord. There was no evidence before the Tribunal that the notice of proceedings fee had been incurred by the Respondent. It had been demanded from the Applicant by the Respondents managing agents but that was not evidence of the Respondent incurring the fee.

90. For those reasons the Tribunal Determines that the Notice of Proceedings fee of £150.00 is not payable by the Applicant.

91. **The Monitoring Fee of £108.00.**

92. **The Applicant's Case.**

93. The Applicant told the Tribunal that this appeared to be a fee that the Respondents managing agent had simply made up in order to recover more money from him. In his statement of case he says that monitoring fee is not defined in his lease, that the scope of the services that it allegedly covered had not been provided and that it was unclear who the service provider was.

94. **The Respondent's Case.**

95. Mrs Gurvits told the Tribunal that this was a fee for time spent by the managing agent in monitoring the Applicant's account and for calculating the amount of interest payable by him. It is the Respondent's case that such a fee is payable by the lessee under the terms of clause 6 of the 4th Schedule to the Lease being a fee incurred in relation to the enforcement of the Tenant Covenants or in connection with or in contemplation of the service of a notice under section 146 of the Law of Property Act 1925.

96. Upon being questioned by the Tribunal Mrs Gurvits said that the fee would be invoiced to the Respondent by the managing agents but she confirmed that there was no evidence of such an invoice in the hearing bundle.

97. **The Tribunal's Decision.**

98. It was unclear to the Tribunal what this fee purportedly covered. There was no explanation as to how it had been calculated. The Tribunal has some sympathy with the Applicants' contention that it appeared to be a fee that had been merely added to the demands made of him in an attempt to obtain more money from him. From the limited explanation provided by Mrs Gurvits the Tribunal is not satisfied that such a fee, if incurred by the Respondent, would amount to a cost fee or expense for the purposes of clause 6 of the 4th Schedule to the Lease incurred in connection with or in contemplation of the enforcement of the Tenant Covenants or in connection with or contemplation of the preparation or service of a notice under section 146 of the Law of Property Act 1925. In any event there was no evidence before the Tribunal that this fee had been incurred by the Respondent and for that reason the Tribunal Determines that it is not payable by the Applicant.

99. **Debt Recovery Agents Fees £243.00, £474.00 and £480.00.**

100. **The Applicant's Case.**

101. The Applicant told the Tribunal that it was unreasonable for the Respondent to incur such fees when the sums that were being claimed remained in dispute. That to instruct debt recovery agents was a premature step for the Respondent to take. It amounted to action which was intimidating, it was not necessary or justified. He had always accepted he had to pay Insurance Rent, he just disputed the amount and required an explanation as to how it had been calculated.

102. In his statement of case the Applicant queries whether the Lease permitted recovery of such fees and contended that such fees penalised lessees who were attempting to challenge unfair charges.

103. **The Respondent's Case.**

104. Mrs Gurvits told the Tribunal that the fee of £243.00 was a fee charged by the Debt Recovery Agents (DRA) for receiving the instructions to pursue the debt and dealing with the paperwork. The fee of £474.00 was also a fee charged by DRA, but that she was unable to provide a breakdown or explanation for it. Mrs Gurvits told the Tribunal that both of these fees were sent by DRA not to the Respondent nor to the Respondent's managing agents but directly to the Applicant. That in the event that the fees are not paid by the Applicant they would ultimately be the responsibility of the Respondent to pay.

105. Mrs Gurvits said that the fee of £480.00 was a fee charged not by DRA but by the Respondents managing agents for putting the case together to present

to DRA. She said that it was very much a last resort for the Respondent's managing agents to refer such matters debt collectors. She said that for a landlord to recover outstanding payments they must go through certain processes. That applications to the Tribunal were usually made by lessees not by lessors. That the Applicant had delayed making his application to the Tribunal until February 2025. That had he made the application earlier it may well have been the case that DRA would not have been instructed. Upon being questioned by the Tribunal Mrs Gurvits confirmed that there was no evidence of any of these fees being incurred by the Respondent in the hearing bundle.

106. **The Tribunals Decision**

107. In the view of the Tribunal, fees paid to debt collectors, provided that they are reasonably incurred and reasonable in amount may be recovered under the terms of the Lease from the lessee. That because they may be fees incurred in connection with or in contemplation of the enforcement of the Tenant Covenants (as provided for by clause 6 of the 4th Schedule to the Lease) or fees suffered or incurred by the Landlord arising out of or in connection with a breach of the Tenant Covenants (see the indemnity at clause 15 of the 4th Schedule as set out at paragraph 21 above).

108. There was however no evidence before the Tribunal that these fees had been incurred or 'suffered' by the Respondent. Indeed the Tribunal was told that two of the fees had been sent by the debt collectors not to the Respondent but direct to the Applicant. Even if these fees were payable by the Applicant there was insufficient evidence before the Tribunal for it to determine whether or not they were reasonable in amount. For the avoidance of doubt the Tribunal makes no Determination as to whether or not these fees are reasonable.

109. The Tribunal Determines that the debt recovery agents fees of £243.00. £474.00 and £480.00 sought by the Respondent from the Applicant are not payable by the Applicant there being no evidence that such fees had been incurred by the Respondent.

110. **Section 20C Landlord and Tenant Act 1985**

111. The Applicant applies for an order that all or any of the costs 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 him.

112. Mrs Gurvits told the Tribunal that she accepted that the Lease did not allow for the recovery of any costs incurred by the Respondent in this proceedings as service charges.

113. The Tribunal agrees with Mrs Gurvits. The Lease does not allow the Respondent's costs of these proceedings to be recovered as part of any future service charges payable by the Applicant.

114. In the view of the Tribunal it was not unreasonable for the Applicant to bring these proceedings, and he has enjoyed some degree of success. In the circumstances the Tribunal Orders that all or any of the costs 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 him.

115. **Paragraph 5A Schedule 11**

116. Paragraph 5A of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 provides that a lessee may apply to the Tribunal for an order reducing or extinguishing the lessee's liability to pay a particular administration charge in respect of litigation costs. Those include costs incurred in relation to proceedings before this Tribunal.

117. Mrs Gurvits contended that the Respondent was entitled to recover the costs that it had incurred in respect of these proceedings as an administration charge pursuant to clause 6(a) and (b) of the 4th Schedule to the Lease. That such costs as the Respondent may have incurred in respect of these proceedings were costs incurred in connection with or in contemplation of the enforcement of the 'Tenant Covenants' in the Lease or in the preparation and service of a notice under section 146 of the Law of Property Act 1925.

118. The Tribunal doesn't agree. These are proceedings brought by the Applicant. Proceedings which he was entitled to bring to determine whether or not monies demanded of him were payable and if so reasonable in amount. Any costs that may have been incurred by the Respondent in responding to these proceedings were not costs incurred in the enforcement of any of the 'Tenant Covenants' nor costs incurred in connection with or in contemplation of the preparation of any notice under section 146 of the Law of Property Act 1925.

119. Further, in the view of the Tribunal the Applicant has also enjoyed some degree of success. The Tribunal Orders that the Respondent may not recover from the Applicant any costs that it has incurred in respect of these proceedings as administration charges.

120. **Summary of Decision**

121. The Tribunal Determines that:

122. The amount of Insurance Rent payable by the Applicant to the Respondent for the period of 11 June 2024 to 31 May 2025 is £410.67.

123. The sum of £590.00 in respect of surveyors fees is payable by the Applicant to the Respondent.

124. Of the amount of interest demanded by the Respondent, the amount payable by the Applicant is £45.18.

125. The Notice of Proceedings fee of £150.00 is not payable by the Applicant.

126. The Monitoring fee of £108.00 is not payable by the Applicant.
127. The debt recovery agents fees of £243.00. £474.00 and £480.00 sought by the Respondent are not payable by the Applicant
128. Section 20C Landlord and Tenant Act 1985
129. The Tribunal Orders that all or any of the costs 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 Applicant.
130. Paragraph 5A Schedule 11 Commonhold and Leasehold Reform act 2002.
131. The Tribunal Orders that the Respondent may not recover from the Applicant all or any of the costs incurred by it in respect of these proceedings as administration charges.

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to rpsouthern@justice.gov.uk 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.
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.

