FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**CHI/00ML/LSC/2024/0054**
Property	**:**	**Flat 22, Princes House, 165-169 North Street, Brighton, BN1 1EA**
Applicant	**:**	**Alessandro Derrick Cockman**
Representative	**:**	**Mr Leb of counsel**
Respondent	**:**	**Baron Homes Corporation Limited**
Representative	**:**	**Ms Blencowe, director**
Type of application	**:**	**For the determination of the liability to pay service charges**
Tribunal members	**:**	**Prof R Percival** **Mr M J F Donaldson FRICS** **Ms T Wong**
Venue and date of hearings	**:**	**Havant Justice Centre: 29 January 2025** **Remote by CVP: 28 July 2025**
Date of decision	**:**	**10 December 2025**

DECISION

Decisions of the tribunal

(1) The Tribunal determines that during the relevant period, the service charge demands were not served as required by the lease, and the sums therein charged are not payable.

(2) The Tribunal proposes to strike out the Respondent's application under section 20ZA under First-tier Tribunal)(Property Chamber) Rules 2013, rule 9(2). The parties may make representations in relation to the proposed striking out within 28 days of the date on which this Decision is sent to the parties.

The application

1. The Applicant seeks a determination pursuant to section 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 years from 2017 to 2024 (up to 12 October 2023). The service charge year is from 25 to 24 December. For convenience, we refer to each service charge year by the date of the majority of its span (so that from 25 December 2017 to 24 December 2018 is "2018"), and the final year as ending on 12 October 2023.

2. Sources of free legal information, including the legislation referred to in this decision, are set out in the appendix to this decision.

The background

3. The property is a one bedroom flat in a block in central Brighton. The block, which appears to be of mid-twentieth century construction, has commercial premises on the ground floor and 32 flats above.

4. The Applicant sub-let the property during his ownership of the leasehold interest. He sold his interest on 12 October 2023.

5. We were told that the Respondent retained all but six of the flats.

The lease

6. The applicant is the first leaseholder. The parties to this dispute are the parties to the lease. The lease is dated 26 July 2002 and is for a term of 125 years. A series of definitions are given at the start of the lease, designated D(1) to D(8). There is no extended definition of the physical features of the demise, except as appears in the context of the Lessee's repairing covenant. Clause 1(D)(3) defines "the Flat" as "ALL THAT the flat numbered 22 …".

7. The lessee's repairing covenant is at clause 3(A)(ii). It refers to the "interior of the Flat", which is defined in clause 3(A)(iii) as consisting of the internal partition walls, doors "in the perimeter walls", the ceiling, but not the structure to which they are attached, the floors above the joists, the interior face of perimeter walls and service conduits etc serving only the flat and used only by the occupant of the flats. [no reference to windows]. Clause 3(A)(iv) requires periodic redecoration, but, "for the avoidance of doubt, the Lessee shall not paint or decorate the exterior of the window frames …".

8. The Lessee covenants to clean the inside of the flat's windows (clause 3(E)).

9. The Lessee covenants to pay the Lessee's Proportion "as defined in D(5) [1.75%]" of "all monies expended by the Lessor in complying with its covenants in relation to the Block as set forth in clauses 5(B) and 5(D) …" (clause 3(B)(i)). There then follows the details of the service charge mechanism.

10. Clause 3(B)(ii)(a)(I) provides for the Lessee to pay "on the Payment Days [24 June and 25 December: D(8)]" in advance in every year the First Sum described in D(6) hereof [£418] or such greater sum as the Lessor its agents shall in their absolute discretion deem appropriate (hereinafter called 'the Estimated Sums'". Those sums are "two yearly payments on account of the Lessees liability for the Maintenance Year due on the Payment Days …" (clause 3(B)(ii)(a)(II).

11. The Lessor is required as soon as practicable after 25 December each year to deliver to the Lessee a summary certified by a qualified accountant of the money expended by the Lessor during the year prior in complying with the covenants in 5(B) and 5(D) and a notice of the Lessee's liability. It also makes provision for "a notice in writing of the amount due from the Lessee under Clause 4(B)(i) hereof credit being given for the amount paid under Clause 3(B) hereof". There is no clause 4(B)(i). It may be a typographical error for 3(B)(i)#. Clause 4(B) deals with a right of entry by the Lessor in relation to repair of conduits etc (clause 5(D)(vi)(b)).

12. Within 21 days of receiving these documents, the Lessee must pay any shortfall or "be entitled to receive from the Lessor" any overpayment (clause 3(B)(ii)(b). However, the following clause is a proviso that any amount repayable to the lessee may be applied to the reserve fund, or to the Estimated Sums for the following maintenance year, or any following maintenance year. There is also provision for the demand of further sums at any time to meet the Lessor's covenants if the sums originally demanded are insufficient (clause 3(B)(ii)(c)).

13. The Lessor's covenant to insure is clause 5(B) (although the first sub-clause appears to be wrongly numbered 6).

14. The Lessor's repairing covenant is in clause 5(D)(i), which applies to parts of the building not interior to flats (using the definition in the Lessee's repairing covenant), and (clause 5(D)(ii)) to paint the exterior of the block. The covenant to clean and light the common parts is at 5(D)(iii)(a). Other 5(D) covenants include the employment of staff, the provision of a concierge, the engagement of a managing agent and of qualified accountants. There are further covenants in clause 5(D) covering maintenance of the hot water system ((viii)), party structures ((ix)), lifts and fire alarms.

15. Clause 5(D)(vi)(c)(I) requires the Lessor to maintain a reserve fund, and provides that it must carry forward any "excess sums" paid by Lessees, and to make demands for contributions to the reserve fund "to provide for depreciation and to cover such future expenses or liabilities … as the Lessor shall reasonably expect to incur in complying with the covenants in 5(B) and 5(D) … and such sums shall be properly chargeable expenditure for the purpose of clause 5(D)…"

16. Clause 7 is headed "Service of Notices", and reads as follows (errors reproduced):

> "7.1 Section 196 of the Law of Property Act 1925 shall apply to these presents
>
> 7.2 Any notice required to be served on the Lessee shall be sufficiently given although only addressed to the Lessee without his name or generally to the person interested in the Flat and sent by first class post to the Flat or affixed to or left at the Flat"

17. A schedule of service charge percentages is provided for all of the flats in the block. That for flat 22 is 1.75%. The largest percentage payable by a flat subject to a long lease is 8.5%.

18. Under the heading of "limitations of lessor's liability", clause 6(B(ii) excludes the liability of the lessor to pay for repairs or maintenance out of its own money, subject to a proviso in clause 6B(iii) which states

> "EXCEPT that the Lessor shall be liable out of its own money to contribute to the maintenance of the Block in such manner and to such extent that the Lessor would be liable if the Lessor were a third party and were lessee under Long Leases similar to this Lease of the flat or flats in the Block which are from time to time not let on Long Leases"

The hearing

Introductory

19. The Applicant was represented by Mr Leb of counsel. The Respondent was represented by Mrs Blencowe, a director.

20. In advance of the reconvened hearing on 28 July 2025, both parties sought to provide further material. The Applicant provided material relating to gas and heating charges which had been the subject of an order for disclosure made by a procedural judge (Judge Lumby) on 23 May 2025. The Respondent provided additional witness statements from Ms Pheobe Blencowe and Ms Clarke in relation to the system for service of service charge demands and other notices. As a response to these witness statements, the Applicant applied to adduce a witness statement from Ms De Simone, relating to the same issue.

21. Insofar as admission of this material was not covered by Judge Lumby's orders, we allowed it to be admitted. Neither party opposed the admission of the material by the other.

22. Ms Phoebe Blencowe gave remote oral evidence at the reconvene. The other two witnesses were not available for cross examination.

23. In the event, we were not able to hear submissions, the evidence having gone too late, on the second day. With the agreement of the parties, we made provision for the exchange and submission of written submissions. The last date in the sequence was 2 September 2025.

The issues

24. We set out the issues that were addressed in the hearings and the written submissions. In the event, our conclusion as to the first issue means we do not consider the other issues. The issues before us were as follows:

    (i) Whether the service charge demands were served in accordance with the lease.

    (ii) Whether the service charge demands were complaint with Landlord and Tenant Act 1987, section 47.

    (iii) Whether the service charge demands were accompanied by the statement of rights and obligations required by section 21B of the 1985 Act, where relevant.

    (iv) The reasonableness of the contested service charges in the light of the state of the accounting documents and calculation.

    (v) The reasonableness of charges for communal electricity.

    (vi) Whether section 20 of the 1985 Act and the regulations made thereunder were complied with in respect of four sets of major works;

(vii) whether a separate application to dispense with the consultation requirements should allowed under section 20ZA of the 1985 Act.

The witnesses

25. First, given the extent of factual disputes between the parties, we make general observations on the view we have taken of the witnesses, drawing on their evidence over all of the issues raised.

26. We heard extensive oral evidence from both. Mr Cockman was cross examined, re-examined and answered questions from the Tribunal on the first day during the whole of the morning, and briefly gave additional evidence following the conclusion of Mrs Blencowe's evidence on the second day. Mrs Blencowe's oral evidence started with cross-examination shortly before the lunch adjournment on the first day and went on until late into the afternoon of the second day.

27. We found Mr Cockman to be a clear, consistent and coherent witness, bordering on the fastidious. His answers to questions were precise, and nothing in his answers to the questions put by either the Respondent or the Tribunal suggested anything other than honest and careful answers.

28. Mrs Blencowe was an unsatisfactory witness. We appreciated that English may not be her first language, but she presented as entirely fluent in the language. The length of her cross examination, and her questioning by the Tribunal, is largely explained by her voluble evasiveness in answering questions. She constantly avoided answering a difficult question by distraction, and frequently went off at tangents. Having heard her for a considerable time, our conclusion was that this was not a manifestation of mere scattiness, but rather was a calculated method of concealing weaknesses or outright fabrications in her evidence. Notwithstanding, she frequently contradicted herself during the questioning in "clarifying" answers when contradictory or incompatible previous statements or documentary evidence were put to her.

29. We add two features of the evidence relating to other issues before us, which we do not deal with below for the reason given above, which tend to confirm our lack of confidence in Mrs Blencowe's evidence.

30. First, Mrs Blencowe told us, at the conclusion of the first day, that the leases of the commercial properties required them to contribute 22% of the costs also attributable to the service charges payable by the lessees. However, she continued to apply the percentage payable by the lessees to the whole sum of the relevant expenditure, not 78% of that sum. We also note here that the figure provided by the Respondent was that the commercial properties and the leaseholders contributions together amounted to about 45%, which indicated a far higher proportion being

paid by the leaseholders than would seem likely to be proportionate, given that 24 of the 32 flats were retained.

31. Secondly, the Respondent is responsible for contributing an equivalent amount to that payable by the lessees in respect of retained flats. Mrs Blencowe had explained her approach to this obligation in her witness statement, where she said "[t]he Respondent has ownership of any unlet flats and consequently does contribute for those flats the difference between the expenditure and the sums payable under the long leases/commercial leases."

32. However, during cross examination and questions by the Tribunal during the second day, Mrs Blencowe made it clear that she did not do so. Persistently throughout the period from 2019 to 2023, the Respondent collected around a quarter or a third of the sums budgeted for. It was put to her that the shortfall must be the result, at least very largely, of a failure by the Respondent to pay its contribution in relation to the 26 retained flats. She said that the Respondent always paid about £60,000 (the Respondent's overall contribution, on Mrs Blencowe's account, being about 55%). This was in the context of total budgeted demands of £469,285 in 2019, £315,600 in 2020, £167,235 in 2021 and 2022 and £313,386 in 2023. When asked why she was not adhering to the Respondent's obligations under the lease, after considerable attempts at distraction, she said she did not know. She also gave different accounts in relation to these figures on the first and second days, both of which could not be true. Again, she evaded giving any plausible explanation.

33. Mr Leb put it to Mrs Blencowe that she had in these years inflated the budgeted account so as to collect as much as possible from leaseholders, without actually spending the full amount, in order to minimise the actual contribution made by the Respondent. Had we come to consider the issue substantively, we would have accepted Mr Leb's submission. We would have gone on to find that a service charge demand made to the lessees for their full contribution could not stand as a rational decision where the Respondent was only contributing a much lesser sum than their holding of retained flats required.

34. In both cases, we regard Mrs Blencowe's actions as dishonest, albeit that the second is much more seriously so.

35. Mrs Blencowe's daughter, Ms Phoebe Blencowe, gave evidence at the reconvene. Her witness statement, dated 19 February 2025 related to the operation of the system in the office for communicating service charge demands. Her witness statement was in substantially identical terms to that of Ms Clarke, which was dated two days earlier. She said in evidence that she had drafted her own witness statement and had not seen Ms Clarke's before the hearing, a wholly incredible answer that she persisted

with. She also said that she had not discussed its contents with her mother. We find it difficult to place any reliance on her evidence.

36. In short, if there were direct conflicts between Mrs Blencowe and Mr Cockman, and subject to taking documentary evidence and inherent likelihoods into account, we prefer the evidence of Mr Cockman.

Were the service charge demands properly served?

37. Both parties agreed that service charge demands were emailed to the Applicant's agent managing the property, the Brighton and Hove branch of Leaders letting agents.

38. The Respondent's case at the hearing was that the demands had also been sent by post to Mr Cockman's home address.

39. Mr Cockman's evidence was that he had never received copies of service charge demands in the post at his home. His home address was known to the Respondent (indeed, it is his address as stated in the lease).

40. For obvious reasons, there was no positive documentary evidence that the Applicant could provide for a lack of postal demands sent to his home.

41. In her witness statement, Mrs Blencowe refers to sending documents to "various addresses" at the request of the Applicant, and states that examples are to be found in relation to the service charge year 2019 in the unindexed 256 page exhibit to her statement, but the only communication in that year in the exhibit is an email.

42. Mrs Blencowe's statement also said that "the lack of information received by the Applicant may be to do with communication through his Agents", suggesting that, at that point, and in part at least in connection with the provision of the notices required by sections 47 and 48 of the Landlord and Tenant Act 1987, she was assuming communication via Leaders. She went on

> "We have repeatedly provided statements of account, but often that is when the account falls into arrears, so we would provide a summary of the entire account rather than copies of each of the demands that supported it, which originally would have been sent to him, or to Leaders, directly."

43. In cross examination, she said that "or to Leaders" was an error, and should have been "and to Leaders". However, our reading of the passage as a whole was that she relied on, first, only email communication, and, secondly, at least substantially, communication via Leaders. Both are antithetical to her case that all service charge demands were delivered by post to the Applicant's home address.

44. Similarly, in another passage in her statement, Mrs Blencowe states:

> "... it is not correct to suggest that the demands were only sent by e-mail. Invoices were posted and e-mailed to Leaders and that was at the direct request of the Applicant. I am unclear as to how he can now complain about that."

45. In answer to a question by our lay member, Mrs Blencowe said that this did not mean that she thought that, if the Applicant requested emails to Leaders, that it was not necessary to also post them to his home address, and that if that was the impression given, it was wrong.

46. The immediately following paragraph states that Mrs Blencowe had been advised by solicitors that "Section 7 of the Lease does not relate to the service demands, but rather to service of formal Notices." That that should appear immediately after the passage about emailing to Leaders might naturally be read as a justification for *not* sending service charge demands to the Applicant's home address, but Mrs Blencowe disavowed that interpretation when questioned. We note that Mrs Blencowe argued in her written submissions that service charge demands are not notices under the lease, a legal issue we deal with below.

47. In cross examination, Mr Leb put it to Mrs Blencowe that at no point in her statement is it stated that service charge demands were posted to the Applicant. Mrs Blencowe was not able to point to any such passage in any document which stated or implied that demands had been sent by post to the Applicant, but that it was her oral evidence now that that was the case.

48. Mrs Blencowe explained that they used QuickBooks, a generic small and medium sized business accountancy software package. This generated invoices and attachments (she was to argue that it provided, for instance, the statement of rights and obligations required under section 21 of the 1985 Act). When the documents were printed, they then had to be put in an envelope and addressed. On the first day, Mrs Blencowe was asked if she could not provide evidence from one of the more junior members of staff dealing with these matters. She said that she was able to give evidence as to the operation of the system. She did subsequently provide two witness statements from other members of staff for use on the second day, which we deal with below.

49. In cross examination, Mr Leb established that there was no copy of an email in the bundle which even referred to there being hard copies of service charge demands in the post (although there was evidence of references in emails to other documents being posted in hard copy).

50. We note a more general point. All of the service charge demands appearing in the bundle are addressed to the Applicant "c/o Lenders", and are accompanied by a covering email. There is not a single example

of a service charge demand in either the original hearing bundle or a further bundle prepared for the reconvene indicating that it was sent by post to the Applicant's address. There are a small number of "statements" (which include heat bills, ground rent and administration charges, as well as apparent service charge arrears) which feature the Applicant's postal address, but each of those is accompanied by a print out of an email referring to the statement as "attached".

51. For the second day, we did have some additional evidence in relation to posting, in the form of the new witness statements. During Mr Leb's cross examination on the first day, Mrs Blencowe said, when asked why no records of posting had been produced, that she considered that she had enough evidence and did not require any more documentary support. She cannot have still been under that impression in advance of the first day, and indeed did provide the new witness statements. But we still did not have any documentary evidence to support those statements.

52. The identical witness statements of Ms Clarke and Ms Phoebe Blencowe which we refer to above, state, in general terms, that they ensured that all notices and service charge demands were both emailed and sent as hard copy through first class mail.

53. In cross examination, Ms Pheobe Blencowe, in addition to her statement that she wrote and typed out her statement herself without reference to Mrs Blencowe or Ms Clarke, also denied that she had been told by her mother what to include in the witness statement, or even what the subject matter should be. She referred throughout her oral evidence only to notices under section 20, as if her written statement did not also relate to service charge demands. In justifying her assertion of non-communication with her mother, she specified that she knew that the issue related to section 20 notices.

54. For the reasons we set out above, we consider that very little weight is to be given to this evidence, in the light of Ms Phoebe Blencowe's answers in cross examination.

55. The statements are in any event vague and general, not supported by any detail as to their work method or routine. We note that we were told by Mrs Blencowe that the company operated over one thousand units. If that were the case, then the routine posting of notices would be a significant operation.

56. The operative paragraph of the witness statements were:

> "I maintained a consistent process for communicating with leaseholders and tenants regarding notices and service charge demands. - We ensured that all notices and service charge demands were both emailed and sent as hard copies through first-class mail. - Hard copies were dispatched to all relevant parties, including tenants and leaseholders, to the addresses

> provided to us at that time. - Our method ensured that all involved parties were duly informed of any changes, notices, and demands in a timely manner."

57. It continues "We strictly adhere to maintaining records of all communications …" But not only is the positive evidence unpersuasive, it remained the case that, even six months after the first hearing, it was unsupported by any documentary evidence suggestive of posting, or even the purchase of stamps, despite the assertion that records were maintained.

58. Ms Clarke was not available for cross examination or questions from the Tribunal. We primarily take account of her witness statement in relation to our assessment of the credibility of Ms Phoebe Blencowe.

59. The patent inadequacy and indeed dishonesty of this evidence if anything supports the Applicant's case.

60. The Applicant provided an additional witness statement from Ms De Simone, who states she has been the joint lessee of flat 20, Princes House since 2006. She states that she has only received service charge demands by email since 2020. Before then, she received demands by post in 2019 and June 2020 at her home address (which is not that of the flat). Ms De Simone was also not available for cross examination or questions from the Tribunal. We note that her evidence gives some limited support to the Applicant's case, but do not significantly rely on it.

61. We find as a fact that the Applicant has not received any relevant service charge demands by post. In doing so, we take account of our findings as to the credibility of the witnesses who gave oral evidence. His evidence that he did not do so, at any time, raises a prima facie case, which the Respondent entirely fails to displace.

62. Above all, all of the documentary evidence we were provided with indicates that all of the service charge demands were served on Leaders by email, and there is no indication in any document that they were also served by post on the Applicant in person. Even where the Applicant's address appears on a document, there is clear evidence that it was sent by email, and no evidence that it was posted. Further, the general tenor of Mrs Blencowe's statement was more consistent with her not considering postal service on the Applicant in person necessary, and that it was not done, rather than the contrary. It was only in oral evidence that she was to insist that every service charge demand was also posted to the Applicant in person.

63. Ms De Simone's evidence that she did receive postal service on two occasions within the relevant time frame gives some limited support to the Respondent's case in relation to those two years. However, we do not

think that the fact that another lessee did receive limited service by post is sufficient for us to infer that the Applicant also did so, given the strength of the evidence to the contrary indicated above.

64. We turn to two possible legal issues.

65. We have quoted clause 7 of the lease above. Section 196 of the Law of Property Act 1925 ("the 1925 Act") insofar as it is relevant provides

> "(1) Any notice required or authorised to be served or given by this Act shall be in writing.
>
> ...
>
> (3) Any notice required or authorised by this Act to be served shall be sufficiently served if it is left at the last-known place of abode or business in the United Kingdom of the lessee, lessor, mortgagee, mortgagor, or other person to be served ...
>
> (4) Any notice required or authorised by this Act to be served shall also be sufficiently served, if it is sent by post in a registered letter addressed to the lessee ... by name, at the aforesaid place of abode or business, office, or counting-house, and if that letter is not returned by the postal operator ... undelivered; and that service shall be deemed to be made at the time at which the registered letter would in the ordinary course be delivered."

66. In a decision binding on us, in *London Borough of Southwark v Akhtar* [2017] UKUT 150 (LC), [2017] L&TR 36, the Upper Tribunal (Judge Cooke) found that subsection (4) was satisfied by first class posting, in reliance on the Interpretation Act 1978, section 8.

67. In respect of the first possible issue, Mr Leb cited *E.ON UK plc v Gilesports Ltd* [2012] EWHC 2172, [2013] L&TR 4 for the proposition that section 196 of the 1925 Act was not satisfied by notice by email. That case concerned a different factual situation, but one in which, as here, a lease incorporated the forms of service in section 196. What the Court said at paragraph [54] has general application:

> "Counsel for Gilesport submitted that section 196 merely stipulated that such service was 'sufficient', not that it was required, and that there was good service because the application was in fact received by [the relevant person's] agents. I do not accept that submission. In my judgment section 196 requires service by one of two methods: either delivery to (in the case of a landlord) the landlord's last known place of abode or business or by registered post. In the present case neither method was used. Accordingly the application was not "served" ..."

68. In the Respondent's written submissions, it is submitted that clause 7 did not apply to the service charge demands:

> "The Lease clause relates to service of notices required under the Lease and a notice is not the same as a demand. The clause relates to formal notices specifically referred to in the Lease, such as a Notice to repair property, or a Forfeiture Notice, and is permissive so that if the Respondent can show that it complied with those requirements, it does not need to show that it reached the Applicant. Demands for payment of service charges are not such notices, but if they were, demands sent to the flat which would not have reached the Applicant would have been validly served. It is therefore not, as suggested, a contractual mechanism for service or indeed the only method of service."

69. We reject this argument. In the first place, the argument that the mechanism in section 196, as incorporated into the lease, is "permissive", and good service may be effected in other ways is exactly the submission rejected in the passage quoted above from *E.ON UK plc v Gilesports Ltd*.

70. Secondly, we reject the argument that a service charge demand is not a "notice." As a matter of language, a notice is something that notifies a person of something. A service charge demand notifies a lessee of the amount of a service charge. It is, moreover, a *formal* notice, in that it determines the contractual liability of the lessee to the landlord under the lease, and is subject to whatever mechanism the lease sets out in respect of a service charge. The fact that the lease does not use the word "notice" (with or without a capital letter) does not deprive it of that character.

71. In *London Borough of Southwark v Akhtar,* Judge Cook was dealing with service of a notice under section 20B of the 1985 Act in the context of a lease which incorporated the forms of service in section 196 of the 1925 Act. Her determination related to whether such a notice counted for the purposes of section 196, given that subsection (5) of that section referred to "notices required to be served by an instrument", and that section 205(1)(viii) of the 1925 Act provided that "instrument" did not include a statute. She considered whether a section 20B was a "notice under this lease", the expression used in the clause incorporating section 196. She concluded that it was, following a discussion of when something was "under" a lease (paragraphs [58] and following). Clearly, the judge considered it was harder to bring a statutory "notice" into the service requirements imposed by a lease than would be the case for a mechanism provided for within the lease itself, such as a service charge demand. We note in passing that section 20B does not use the noun, but refers to a tenant being "notified in writing".

72. In *38-41 CHG Residents Company Limited v Ms Iris Hyslop* [2020] UKUT 2019, it was assumed by the Upper Tribunal (and the parties) that

a service charge demand was a notice, so as to engage a clause in a lease incorporating the forms of service set out in section 196. So while the question of whether a service charge demand was a notice for the purposes of section 196 was not considered there, that was so because all concerned considered it obvious that it was. We think that too.

73. Finally, the Respondent has not made any other argument in law as to the effect of the failure to serve a service charge demand in compliance with the lease. For instance, no argument as to estoppel by convention has been made. But it is not a matter for us to invent novel arguments not put by the parties other than rarely and in exceptional circumstances, and subject to procedural protections: *Sovereign Network Homes v Hakobyan and others* [2025] UKUT 115 (LC), [2025] 1 WLR 3782.

The effect of our conclusion

74. Our finding of fact is we are satisfied on the balance of probabilities that no service charge demands during the relevant period was served in accordance with the requirements of the lease.

75. We have therefore found that the Applicant was not served with service charge demands for each of the years under consideration, and accordingly is not liable for the service charges. Given the timing, we do not believe that it is possible for the Respondent to now serve any new demand which would not relate to expenditure incurred more than 18 months before service, and thus be excluded by section 21B of the 1985 Act.

76. Our jurisdiction is declarative. We have determined under section 27A of the 1985 Act that no service charges were payable during the relevant period. Enforcement of that determination is a matter for the County Court.

77. One of the issues that would have arisen for our determination, had we not concluded as we have in relation to service, was whether a series of four major works which triggered the requirements for consultation under section 20 of the 1985 Act were properly conducted. At our invitation, the Respondent applied for dispensation from the consultation requirements under section 20ZA.

78. The application, critically, only identified the Applicant to these proceedings as a respondent, not the other leaseholders. That application is now moot, in that on the basis of our finding in respect of service, the Applicant has no liability to the Respondent in relation any service charge referable to those works. In these circumstances, there is no possible substantive dispute between the parties.

79. Section 20 of the 1985 Act applies to limit liability for a service charge ("the relevant contribution"), unless the consultation requirements are

(complied with or) dispensed with under section 20ZA. Under section 20ZA, the Tribunal may make a determination if it is satisfied that it is reasonable to dispense with the requirements under section 20.

80. Where there is no liability, the obligation to consult under section 20 does not bite, because there is no possible "relevant contribution". Accordingly, there is, under section 20ZA, no dispute upon the basis of which the Tribunal could come to a conclusion as to whether it was reasonable to dispense with the consultation requirements or not.

81. As a result, we consider that we are stripped of jurisdiction to determine this application. Where we do not have jurisdiction, we are required to strike out the application under Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013, rule 9(2), and we propose to do so.

82. However, we may not do so unless we have first given the parties an opportunity to make representations in relation to the proposed strike out (rule 9(4). We accordingly invite any such representations within 28 days of the date that this decision is sent to the parties.

Applications for additional orders

83. In his original application form, the Applicant applied for orders under section 20C of the 1985 Act and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 to prevent the costs of these proceedings being passed on in the service charge or as an administration charge.

84. However, given that he has now sold his interest in the property, Mr Leb indicated that he did not wish to persist with those applications. Accordingly we make no determination.

Rights of appeal

85. 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 Southern regional office.

86. The application for permission to appeal must arrive at the office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.

87. If the application is not made within the 28 day time limit, the 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 these reason(s) and decide whether to allow the application

for permission to appeal to proceed despite not being within the time limit.

88. The application for permission to appeal must identify the decision of the Tribunal to which it relates, 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.

Name: Judge R Percival **Date:** 10 December 2025

APPENDIX: SOURCES FOR FREE LEGAL MATERIALS

Legislation

The legislation referred to in this decision may be found at:

https://www.legislation.gov.uk/ukpga/1985/70
https://www.legislation.gov.uk/ukpga/1987/31/contents
https://www.legislation.gov.uk/ukpga/2002/15/contents

The Tribunal rules

https://www.legislation.gov.uk/uksi/2013/1169/contents

Case Law

The dedicated website for Upper Tribunal (UT) cases, which are binding on this Tribunal, is:

https://landschamber.decisions.tribunals.gov.uk/Aspx/Default.aspx

The search engine does not allow for free text searching. Sufficient information to use the provided search engine (such as the date of the case or the parties' names) may be available via a google search.

Alternatively, the official National Archive website is at:

https://caselaw.nationalarchives.gov.uk/

This has a better search engine, but does not contain UT decisions before 2015, and there may be gaps in its provision thereafter.

The National Archive website can also be used for finding cases in higher courts, including those referred to in UT decisions.

Alternatively, many UT decisions, and most other important cases in all courts, are available on:

https://www.bailii.org/ .

Bailii stands for British and Irish Legal Information Institute. It is a charity that has published free caselaw for many years, and has in some cases loaded up earlier case law.