



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

Case Reference : **MAN/00BY/LSC/2024/0253**

Property : **Apartment 62, Waterside Apartments, 10
William Jessop Way, Liverpool, L3 1DX**

Applicant : **Cathal O'Donnabhain**

Respondent : **Half Tide dock Limited**

Type of Application : **Landlord & Tenant Act 1985 – s 27A
Commonhold & Leasehold Reform Act
2002 – para 5 sch 11**

Tribunal Members : **Judge Richard M. Dobson-Mason LLB
Miss Jessica O'Hare MRICS**

Type & Venue of Hearing : **Paper Determination**

Date of Decision : **2 October 2025**

DECISION

- (1) The Tribunal determines that the service charges for the Property in respect of the buildings insurance for the period December 2021 to November 2022, December 2022 to November 2023, and December 2023 to November 2024 are reasonable.**
- (2) The Tribunal declines to make an order under para 5A sch 11 Commonhold and Leasehold Reform Act 2002.**

REASONS

Background

1. The Application relates to Apartment 62, Waterside Apartments, 10 William Jessop Way, Liverpool, L3 1DX (*“the Property”*).
2. The Applicant is Cathal O’Donnabhain, the long leaseholder of the Property, being one of the apartments within a purpose-built block of apartments known as Waterside Apartments (*“the Block”*).
3. The Respondent is Half Tide Dock Limited, the residents’ property management company of the Property.
4. The Respondent has appointed a managing agent, Boothman Property Associates Limited, to manage the Block.

The application

5. On 26 August 2024, the Applicant made an application for an order under s 27A LTA 1985 for a determination as to the reasonableness and payability of the service charges relating to the Property in relation to the buildings insurance for the period December 2021 to November 2022, December 2022 to November 2023, and December 2023 to November 2024 (*“the Application”*).

6. The Applicant seeks a further order in respect of para 5A sch 11 Commonhold and Leasehold Reform Act 2002 (“*CLRA 2002*”) to restrict the recovery of the costs of the proceedings as administration charges.
7. The Applicant did not seek an order in respect of s 20C Landlord and Tenant Act 1985 (“*LTA 1985*”) restricting the recover of the costs of the costs of the proceedings as service charges.

The lease

8. The Applicant’s interest in the Property is derived from a Sub-Underlease dated 26 October 2010 between (1) City Lofts (Half Tide Dock) Limited (2) Half Tide Dock Limited, and (3) OK Investments Limited (“*the Lease*”).
9. The Lease refers to a Headlease dated 23 November 2006 between (1) The Mersey Docs and Harbour Company, and (2) City Loft (Half Tide Dock) Limited (“*the Headlease*”).
10. The Lease also refers to an Intermediate Lease, defined as a lease to be entered into, dated 17 March 2011 between (1) City Lofts (Half Tide Dock) Limited, and (2) Half Tide Dock Limited (“*the Intermediate Lease*”).
11. The relevant terms of the Lease are as follows: -

DEFINITIONS

Service Charge: the monies payable by the Tenant for the provision of services in accordance with Schedule 4

Building: means the buildings from time to time erected on the land presently known as 10 William Jessop Way, Liverpool

Common Parts: all parts of the Property which at any time during the term do not form part of the Premises or any other premises in the Property let or intended to be let to any other tenant of the Landlord including (but without limitation):

1 the main ceilings, main floors and floor slabs, main walls, structural steelwork, structural and main columns, beams and joists and all other structural parts of the Property including all windows (but not the glass) window furniture (including the gaskets between glass). doors, door frames and door furniture forming part of the Property;

*2 all internal **walls**, whether load-bearing or not, inside the Common Parts or separating the Common Parts from the Premises or any other premises in the Property let or intended to be let to any other tenant of the Landlord and all windows and doors and window and door frames in those walls;*

3 all entranceways, hallways, balconies, passageways, lifts, and all Pipes other than those demised to the Tenant or any other tenant in the Property;

4 any central heating, air handling or air conditioning system radiators, boilers, ducts, pumps, coolers, controls, and other equipment (including all associated pipes) which serves the Property as a whole or any parts of it communally;

5 any video, monitoring, security, control, access, fire detection, fire prevention or sprinkler system and any other electrical or other system of any type (including all associated pipes) which serves the Property as a whole or any parts of its communally.

6 the Car Park

to the extent that they exist at any time during the Term

Insured Risk: means risks in respect of loss or damage by fire, lightening, explosion, earthquake, aircraft (other than hostile aircraft) and other aerial devices or articles dropped therefrom, impact by vehicles or animals, riot and civil commotion, subsidence, landslip, collapse, storm, flood, bursting or overflowing of water tanks, apparatus or pipes and such other risks of insurance as may from time to time be required by the Landlord (so far as the same are capable of being insured against on terms which in the opinion of the Landlord (acting reasonably) are acceptable and subject to such excesses, exclusions and conditions as may be imposed by insurers

Premises: the property described in the Schedule 5

Property: the Landlord's estate comprised in the Headlease but excluding any future reduction of it

3 TENANT'S COVENANTS

3.1 Payments

...

3.1.2 to pay the Service Charge to the Landlord as additional rent.

3.11 Insurance obligations

...

3.11.3 Not to effect any insurance in respect of the Premises, the Property or the Building except as required by this Lease without the Landlords consent.

3.25 Headlease and Intermediate Lease

3.25.1 To comply with the lessee's obligations under the Headlease and Intermediate Lease (except the covenant to pay rent) so far as they relate to the Premises and to indemnify and keep the Landlord indemnified against all actions, claims, proceedings, costs, expenses and demands relating to them.

3.25.2 As a separate covenant from the covenant contained at clause 3.25.1 and as a direct covenant and not by way of indemnity only to comply with the lessees obligations under the Headlease and Intermediate Lease (except as stated at 3.25.1) as if they were repeated in this Lease in full only with such modifications as one necessary to make them applicable to this Lease but where the terms of the Headlease and this Lease conflict the stricter shall prevail.

4 LANDLORD'S COVENANTS

4.5 Insurances & Subclauses

4.5.1 To keep all buildings for the time being on the Property insured with an insurance office or underwriters of repute (unless the insurance is rendered void by any act of omission of the Tenant (or persons claiming under the Tenant) in the name of the Landlord against loss or damage by the Insured Risks (subject to excesses, exclusions or limitation as may be usual in the insurance market or as the insurers may require) for the full cost of reinstatement (including demolition, site clearance, temporary works, compliant with local authority requirements, architects and surveyor fees, other professional fees and other incidental expenses in each case with due allowance for inflation and Value Added Tax) and third party and property owners liability and to use it reasonable endeavours to procure that the insurers shall note the interest of the Tenant and his mortgagee either by mention of the Tenant or his mortgagee named therein or by inclusion of a general notice of the interest of the lessees, underlessees and mortgagees and other authorised occupiers or by inclusion within the definition of the Insured.

SCHEDULE 4

THE SERVICE CHARGE

Part A

the Services: the services listed in paragraphs 5 and 6 of this Schedule

Part B

5 The Services

5.10 Maintaining third party, employers' liability, public liability and other insurances (including but without prejudice to the generality of the foregoing any insurance relating to the glazing in the Property) and insuring all apparatus, equipment and other items at any time used or kept in on or forming part of the Common Parts, the Building or the Property.

12. The relevant terms of the Headlease are as follows: -

3. TENANT'S COVENANTS

THE Tenant HEREBY COVENANTS with the Landlord as follows:-

1. DEFINITIONS

IN this Lease unless there be something in the subject or context inconsistent therewith:-

(2) (e) "the Demised Premises" means the land and premises described in the First Schedule hereto and each and every part thereof together with the appurtenances thereto and the buildings thereon and all additions alterations and improvements thereto or reinstatements thereof or buildings substituted therefor and shall also include all landlord's fixtures and fittings from time to time in and about the same (excluding any tenants fixtures and fittings);

(2) (h) "the Full Reinstatement Cost" shall mean the costs (including the cost of shoring up demolition and site clearance architects' surveyors' and other professional fees) and Value Added Tax which would be likely to be incurred in rebuilding or reinstatement in accordance with the requirements of this Lease at the time when such rebuilding or reinstatement is likely to take place having regard to all relevant factors including any increases in building costs expected or anticipated to take place at any time up to the date of completion of the rebuilding or reinstatement and shall be the amount specified by the Tenant or such greater amount being the full reinstatement cost as shall

reasonably be required by the Landlord or as shall be determined by the valuer from time to time pursuant to Clause 3(10)(b) hereof

(2) (k) "the Insured Risks" means risks in respect of loss or damage by fire lightning explosion earthquake aircraft (other than hostile aircraft) and other aerial devices or articles dropped therefrom impact by vehicles or animals riot and civil commotion subsidence landslip collapse storm flood bursting or overflowing of water tanks apparatus or pipes and such other risks of insurance as may from time to time be required by the Tenant (so far as the same are capable of being insured against on terms which in the opinion of the Tenant (acting reasonably) are acceptable and subject to such excesses exclusions and conditions as may be imposed by Insurers};

3. (10) (a) Insurance

To keep or to procure that the Demised Premises and each and every part thereof is insured at all times throughout the Term in the name of the Tenant from loss or damage by the Insured Risks with an insurance office of repute or with underwriters of repute in a sum equal to the Full Reinstatement Cost and that a note of the interest of the Landlord shall be placed on the policy of insurance.

The law

13. The Tribunal is given jurisdiction to decide the reasonableness and payability of service charges by s 27A Landlord and Tenant Act 1985 ("LTA 1985"), which provides: -

(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.

14. Subsection 2 provides that the application may be made whether or not any payment has been made by the Applicant.

15. The meaning of the expression “service charge” is set out in s 18(1) LTA 1985, meaning:

“...an amount payable by a tenant of a dwelling as part of or in addition to the rent-

(a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements, or insurance or the landlord’s costs of management, and

(b) the whole of any part of which varies or may vary according to the relevant costs.

16. In making any determination under s 27A LTA 1985, the Tribunal must have regard to ss 19(1) & (2) LTA 1985 which state:

a. 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

b. 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.

17. “Relevant Costs” are defined for these purposes by s 18(2) LTA 1985 as:

The costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

18. S 20C LTA 1985 provides that the Tribunal may restrict the recoverability of the costs of the proceedings as service charges, where it states: -

(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...the First-tier Tribunal...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 person or persons specified in the application.

(2) The application shall be made...

(ba) in the case of proceedings before the First-tier Tribunal, to the tribunal.

(3) The...tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

19. Para 5A sch 11 CLRA 2002 mirrors s 20 LTA 1985 above but applies to costs that may be recovered as administration charges, as opposed to service charges.
20. The Tribunal is given jurisdiction to decide the reasonableness and payability of administration charges by s 158 Commonhold and Leasehold Reform Act 2002 (“CLRA 2002”), which provides: -

Schedule 11 (which makes provision about administration charges payable by tenants of dwellings) has effect

21. Para 5 sch 11 CLRA 2002 provides that: -

(1) An application may be made to the appropriate tribunal for a determination whether an administration 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.*

22. Para 2 sch 11 CLRA 2002 states that: -

A variable administration charge is payable only to the extent that the amount of the charge is reasonable

23. The meaning of the expression “administration charge” is set out in para 1 sch 11 CLRA 2002, meaning:

“...an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable-

- (c) in respect of a failure by the tenant to make a payment by the due date or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant, or*
- (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease*

Directions

24. Directions were made by a Legal Officer on 19 June 2025 (*“the Directions”*) requiring, *inter alia*, sequential filing and service of the parties’ statements of case and evidence in support.

25. The Directions also stated that the Tribunal considers it appropriate for the matter to be determined by way of paper determination and gave the parties the

opportunity to notify the Tribunal if they instead wished to make oral representations. No such notifications were received by the Tribunal.

The hearing

26. The Application was determined on the papers. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that the parties consent to, or do not oppose it.
27. The Applicant, in the Application, requested a paper determination, which was ordered by the Directions.
28. The parties were notified, by the Directions, that unless any party informed the Tribunal within 42 days from the date of the Directions that they required an oral hearing, the matter would be resolved by way of written representations. No objections / requests for an oral hearing were received from the parties within that timescale.
29. The Applicant did not submit a Statement of Case but instead asked the Tribunal to treat the Application as such.
30. The Respondent submitted a Statement of Case dated 29 July 2025 and a bundle of documents annexed thereto.
31. No response to the above was received from the Applicant.

The Issues

32. The issue to be decided by the Tribunal was whether the services charges for the Property in respect of the period December 2021 to November 2022, December 2022 to November 2023, and December 2023 to November 2024 are reasonable, being in the sum of £2,803.76, £819.76 and £936.02 respectively for the Block.

Determination

Applicant's submissions

33. In summary, the Applicant submitted, *inter alia*, that: -

- (a) The Lease stipulates that the lessor is obliged to take out buildings insurance but it does not stipulate that there is an obligation on the lessee to contribute towards the cost thereof.
- (b) It is standard practice in apartment leases to include a specific covenant that the lessee will contribute towards the cost of the buildings insurance premium, however the Lease does not stipulate this.
- (c) The fact that the Lease lacks certainty and is vague is not the lessee's responsibility and this should not be held against the lessee. In this regard the lessee relies on the *contra proferentem* rule.
- (d) In determining the principles of contractual interpretation, the Applicant relies on the Judgement of Lord Hoffman in the case of *Investors Compensation Scheme Ltd v West Bromwich Building Society* [1997] UKHL 28 (*"the Investors Compensation Scheme Case"*).
- (e) There was a 16-fold increase in the cost of the buildings insurance premium in 2022 versus 2021, increasing from c. £175 to £2,803.76. The question to be asked is what oversight the Respondent applied when negotiating the insurance cover for 2022 and whether it exercised due diligence, the lack of such being self-evident by the cost of the same.

- (f) The Applicant has advised the Respondent that he does not require buildings insurance cover and that the Property can be deleted from cover, however, the Respondent has declined this proposal, which still stands.

Respondent's submissions

34. In summary, the Respondent submitted, *inter alia*, that: -

- a) The Lease is subject to the terms of the Headlease, which specifically outline the insurance requirements, that are binding on all subtenants. The Headlease requires the Respondent to effect buildings insurance. The Lease requires the Applicant to pay the service charge, which includes buildings insurance. Therefore, the Applicant is required to pay for the buildings insurance as part of the service charges.
- b) The *contra proferentum* rule and the Judgment in the Investors Compensation Scheme Case do not apply because, *inter alia*, the terms of the Lease and the Headlease, as above, are clear in requiring the Applicant to pay the buildings insurance as part of the service charge.
- c) The significant increase in the premium for the period December 2021 to November 2022 was caused by a cladding issue on the building - in respect of which remediation works are due to take place under a Government Scheme under Homes England – and the impact of the Grenfell Tower fire. The Respondent's priority was to insure the building, trying tirelessly to obtain insurance cover through its professional provider.
- d) As to the Applicant's suggestion that he does not require buildings insurance and it should be excluded, this is not possible given that the Respondent is required to effect said insurance and the Property is part of a larger building (i.e., the Block).

The Tribunal's determination

35. The Tribunal determines as follows: -

- a) The Lease, at clause 3.1.2, provides that the Applicant is required to pay the Service Charge to the Respondent as additional rent, which includes such charges as are incurred by the Respondent in providing the Services pursuant to Schedule 4.
- b) Schedule 4 clause 5.10 sets out that the Services include the Respondent maintaining insurances relating to the Block.
- c) Clause 4.5.1 expressly provides that the Respondent is obligated to insure the Block, and thus the Property.
- d) The Headlease, at clause 3.10, requires the Respondent to keep the Block, and thus the Property, insured.
- e) It is not viable for the Respondent to exclude the Property from the insurance due to the fact that it is part of a larger block, and because it would put the Respondent in breach of the terms of the Headlease.
- f) It is therefore clear that the Respondent is required to effect buildings insurance for the Block, which includes the Property, and that the Applicant is required to pay a fair and proper proportion of the cost of the same. Notably, the Applicant does not challenge the proportion allotted.
- g) Whilst it is accepted that the cost of the buildings insurance has increased, particularly for the period December 2021 to November 2022, the Tribunal also accepts that there was a general increase around this time as a result of the Grenfell Tower fire, and the Respondent acknowledges that cladding issues on the building impacted the cost.

- h) Importantly, the Applicant has failed to raise a *prima facie* case to show that the cost of the buildings insurance was unreasonable, having failed to provide any comparable quotes, or indeed any quotes at all, despite having been given the opportunity to file and serve a Statement of Case and supporting documents and / or a response to the Respondent's Statement of Case.
36. Accordingly, the service charges raised in respect of the buildings insurance for the Property for the period December 2021 to November 2024 are payable and reasonable.

Costs

37. The Applicant made an application that the costs of the proceedings should not be recovered from him by way of administration charge, as recorded in the Application.
38. The Respondent generally denies that application but does not specify any grounds for the same.
39. The Tribunal notes that it is generally a costs neutral venue, save in the exceptional circumstances provided in r 13, which include where a person has acted unreasonably in bringing, defending or conducting proceedings.
40. It also notes that the Application was unsuccessful and that there are no specific submissions made by the Applicant as to why such an order would be appropriate.
41. The Tribunal therefore declines to make the order regarding the costs of the proceedings that are sought by the Applicant on the basis that it would not be just and equitable in the circumstances to make them.

Judge Richard M. Dobson-Mason

2 October 2025