



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

Case Reference	:	HAV/00ML/LIS/2026/0004
Claim Number	:	Mo3YX882
Property	:	Lower Ground Floor Flat, (AKA 11A) 11 Brunswick Street West, Hove, East Sussex, BN3 1EL
Applicant	:	Bernard Gravett (1) Sarah Gravett (2)
Representative	:	
Respondent	:	26 Brunswick Terrace Hove (Freehold) Ltd
Representative	:	Miss Fisher of counsel instructed by Dean Wilson LLP
Type of Application	:	For the determination of the liability to pay service charges under section 27A of the Landlord and Tenant Act 1985
Tribunal Members	:	Tribunal Judge E Bowden Tribunal Member Mr C Davies FRICS
Venue	:	Havant Justice Centre
Date of Decision	:	06 July 2026

DECISION

This is a formal order of the Tribunal which must be complied with by the parties.

Communications to the Tribunal MUST be made by email to rpsouthern@justice.gov.uk. All communications must clearly state the Case Number and address of the premises.

Summary of Decision

- (1) The Tribunal determines that the arrears of service charges from 25/03/2022 to 24/03/2025 in the sum of £10,925.55 as per the claim form are payable and reasonable;**
- (2) Sitting as a judge of the County Court, I determined that contractual interest payable up to and including 17 June 2026 is £2,171.36.**
- (3) Sitting as a judge of the County Court, I determined that the Management fees of £120 as set out in para 7 of the particulars of claim are not recoverable; and**
- (4) Sitting as a judge of the County Court, I determined that contractual costs of £20,000, inclusive of VAT and disbursements, is payable under the Lease.**

Litigation background

1. In around January 2026, the 1st Applicant made an application for determination of liability to pay and reasonableness of service charges for the years 2019/2020 to 2025/2026. The 1st Applicant further sought 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. This was case HAV/00ML/LSC/2025/0704.
2. While HAV/00ML/LSC/2025/0704 was awaiting Directions, the Tribunal received a County Court Order from Brighton County Court regarding proceedings against the Leaseholders for unpaid service charges. The County Court file was transferred to the Tribunal. This was case HAV/00ML/LIS/2026/0004.

3. In/around May 2026, case HAV/00ML/LSC/2025/0704 was struck out for non-compliance, leaving only the transferred County Court matter HAV/00ML/LIS/2026/0004 to be determined at this hearing.
4. Given the complicated procedural background, this decision shall refer to the parties as follows:
 - a. The Claimant is 26 Brunswick Terrace Hove (Freehold) Ltd (“26BTH”)
 - b. The Defendants are Mr and Mrs Gravett (“the Gravetts”)
5. At the hearing, the Claimant sought a determination of its County Court claim, which was made pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”).
6. Neither party requested an inspection, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

Transfer order

7. Under the Order of Deputy District Judge Lewthwaite dated 02 February 2026 the case was transferred to the First Tier Tribunal the relevant paragraphs are:

IT IS ORDERED THAT

- 1. The Claim shall be transferred to the First Tier Tribunal (Property Chamber) Residential Property at Havant Justice Centre, Elmleigh Road, Havant PO9 2AL to resolve all matters falling within the jurisdiction of the Tribunal;*
- 2. A Tribunal Judge sitting as a County Court Judge exercising the jurisdiction of a District Judge in accordance with the County Courts Act 1984 as amended by the Crime and Courts Act 2013 can determine any aspects of the claim outside the Tribunal's jurisdiction;*
- 3. The matter is forthwith transferred to the First Tier Tribunal (Property Chamber) sitting in Havant;*
8. For the sake of clarity, as a result of amendments made to the County Courts Act 1984, First-tier Tribunal Judges are also Judges of the County Court. This means that, in a suitable case, the Tribunal Judge sitting as a

County Court Judge can decide the issues that would otherwise have to be separately decided in the County Court.

9. Therefore, in determining these proceedings, the Chair Tribunal Judge has also determined those issues falling outside the Tribunal's jurisdiction, sitting as a County Court Judge. For convenience, the reasons for both the Tribunal determinations and County Court determinations are set out in this document; they are separate determinations and clearly identified as such. The formal County Court orders themselves are contained in a separate County Court order.

Scope of jurisdiction

10. In this case given the wording in the transfer order paragraph 2 the Tribunal as a tribunal must determine matters under tribunal jurisdiction, namely the determination of the reasonableness and payability of the service charges in dispute.
11. Separately the Chair Tribunal Judge sitting as a Judge of the County Court can proceed to determine matters that fall within the County Court Jurisdiction.
12. Once all decisions/findings have been made, the Chair Tribunal Judge sitting as a Judge of the County Court can proceed to make consequential orders that stem from the Tribunal decision and the County Court jurisdiction. The County Court orders are made in a separate order to this decision.

The Hearing

13. The hearing (listed at 10:00) was called on at 10:20. The Tribunal satisfied itself that the Defendants were aware of the hearing date and that, as at 10:20, the Defendants had neither attended the court building nor made contact with the Tribunal or the Claimant/its legal representative.
14. The Claimant was represented by Ms Fisher, and she was accompanied by Mr Staples. Mr Staples is a director of Deacon Asset Management, which deals with the day-to-day management of 26 Brunswick Terrace and 11

Brunswick Street West, Hove BN3 1EL (which form the same building), and was the witness for the Claimant.

15. As the only case before the Tribunal was the transferred County Court claim, the case proceeded as follows:
 - a. The Tribunal determined tribunal matters; and
 - b. Tribunal Judge Bowden sitting as a County Court Judge, exercising the jurisdiction of a District Judge in accordance with the County Courts Act 1984 as amended by the Crime and Courts Act 2013, determined any aspects of the claim outside the Tribunal's jurisdiction.
16. The Tribunal has the benefit of a hearing bundle (333 pages), supplemental witness statement (8 pages), Ms Fisher's skeleton argument (12 pages), and N260 Statement of Costs filed by the Claimant.

Preliminary issue 1

17. Given the Gravetts' lack of attendance, the Tribunal had to consider how to proceed. The Claimant wanted to proceed with the hearing. Following representations by Ms Fisher, the Tribunal conferred and decided:-

Decision

18. The Tribunal bore in mind the Tribunal Rules, the overriding objective, and 3(e) in particular.
19. There was no application to adjourn; the Tribunal was satisfied that the Gravetts had been notified of the hearing date, the Claimant was present and had incurred the costs of attending and instructing counsel, in those circumstances balancing all the factors in the overriding objective, that the Tribunal determined that hearing should go ahead.

Preliminary issue 2

20. The Claimant filed and served a supplemental witness statement from Mr Staples on 16 June 2026. Ms Fisher applied for permission to admit this witness statement out of time. Following representations by Ms Fisher, the Tribunal conferred and decided:-

Decision

21. There was no direction preventing the Claimant from filing and serving a supplemental witness statement. There was a deadline for filing and serving a witness statement – therefore, this witness statement was out of time, albeit with no specified sanction.
22. The reason given for the late filing was that a witness statement was necessary to correct an error in an already filed witness statement.
23. The supplemental witness statement had been served on the Gravetts by email.
24. The Tribunal admitted the supplemental evidence of Mr Staples because, in all the circumstances of the case, it was just, especially as the witness would have provided the same clarification when giving oral evidence.

Preliminary issue 3

25. Ms Fisher raised the issue of how the matter would proceed, given that the Defendants had filed no evidence but had filed a defence and a purported counterclaim. Ms Fisher was unaware whether the counterclaim fee had been paid. Following representations by Ms Fisher, the Tribunal conferred and decided:-

Decision

26. The matter was listed and would proceed regardless of the fee status.
27. The matter would proceed in the absence of the Defendants, and the Tribunal and or Tribunal Judge Bowden sitting as a Judge of the County Court would deal with the counterclaim in its/her decision. The Tribunal was alive to the issue Ms Fisher raised in her skeleton argument, namely that statements of case/pleadings were not evidence at a final hearing.

The Claim

28. The property, which is the subject of the claim, is registered leasehold property namely Lower Ground Floor, 11 Brunswick Street West, Hove BN3 1EL with title number ESX29864. By a lease dated 21 April 2006 ("the Lease") made between (1) 26 Brunswick Terrace Hove (Freehold)

Limited and (2) Beryl Marguerite Edwards the property known as Lower 11 Brunswick Street West, Hove ("the Property") a residential dwelling house was demised for a term of 999 years from 21 April 2006.

29. The Defendants are the registered title holders of the Property. The Lease required the landlord to provide services and for the tenant (i.e. the Defendants) to contribute towards the cost of those services by way of a service charge. The Lease also permits the landlord to accrue a reserve fund. The key clauses in the lease are set out in Annex 1 to this decision.
30. The Claimant had demanded service charges and reserve fund contributions from the Defendants as follows – and these have not been paid:

Due Date	Description/Period	Sum Due
25/03/2022	25/03/2022 - 28/09/2022 Service Charge	£903.90
29/09/2022	29/09/2022- 24/03/2023 Reserve Fund	£926.08
29/09/2022	29/09/2022- 24/03/2023 Service Charge	£977.82
25/03/2023	25/03/2023 - 28/09/2023 Reserve Fund	£964.25
25/03/2023	25/03/2023- 28/09/2023 Service Charge	£972.56
29/09/2023	29/09/2023- 24/03/2024 Reserve Fund	£964.25
29/09/2023	29/09/2023 - 24/03/2024 Service Charge	£1,120.15
25/03/2024	25/03/2024 - 28/09/2024 Reserve Fund	£977.81
25/03/2024	25/03/2024 - 28/09/2024 Service Charge	£1,070.46
29/09/2024	29/09/2024 - 24/03/2025 Reserve Fund	£977.81
29/09/2024	29/09/2024 - 24/03/2025 Service Charge	£1,070.46

Total:

£10,925.55

31. The Claimant set out its updated claim:
- a. Arrears of service charge in the sum of £10,925.55 as per the claim form;
 - b. Contractual interest up to 16 June 2026, which was a total of £4,588.91.
 - c. Management fees of £120 as set out in para 7 of the particulars of claim; and
 - d. Contractual costs as set out in the N260 Statement of Costs. The County Court set-aside hearing costs were not included in the N260, as there had been a separate County Court costs order.

Evidence

32. The Claimant's evidence came from Mr Staples, who had filed two witness statements and gave oral evidence. Attached to his first witness statement were the service charge demands and the accounts.
33. In oral evidence, Mr Staples confirmed his written statements, albeit the supplementary witness statement corrected an error in his first witness statement.
34. The Tribunal asked Mr Staples questions arising from the claim that needed clarification. Mr Staples provided the following clarifications, in summary:
- a. The reason for there being two different service charge % rates was that Flat 11 under his lease did not pay a % towards some costs. This meant there were 4 schedules. Two for the service charge, one with Flat 11 and one without Flat 11, and two for the reserve fund, one with Flat 11 and one without Flat 11.
 - b. The % rates had been inherited by the current management company, which was from the date his firm took over in 2022.

- c. The management company had received the two payments that the Gravetts had stated in their defence – £2,905.24 and £2,577.91 on 27 January 2025. The management company had transferred both sums to the solicitors, and the solicitors had subsequently returned them to the Defendants. This was because, as he understood it, there could not be accepted in case it was seen as rent, and the right to forfeiture needed to be retained.
- d. He was not able to set out what the management fees of £120 at paragraph 7 of the particulars of claim were for.
- e. The sums demanded have not been paid.

The Defence

- 35. The Gravetts filed a 'statement of facts' in the County Court. Due to the timing of this statement of facts, and it being attached to the Gravetts' application to set aside, it has been treated as their defence and counterclaim. The 'statement of facts' is only signed by Mr Gravett and does not contain the correct statement of truth.
- 36. In terms of evidence from the Defendants, the 'statement of facts' has been treated as a defence; however, under the Civil Procedure Rules, it was a witness statement in support of an N244 application, and is a witness statement filed in the County Court proceedings, albeit that it does not strictly comply with the requirements of a witness statement and it was not tested in cross-examination. The Tribunal finds that it cannot ignore Mr Gravett's witness statement, but it can only give it limited weight, given that Mr Gravett did not attend and his evidence has not been tested.
- 37. The defence/evidence put forward by the Gravetts is:
 - a. The service charge % was unfair as it does not fairly reflect the Property's use of the common parts, the Defendants were being charged for the following which they do not enjoy:
 - i. The maintenance and decoration of the communal areas in 26 Brunswick Terrace

- ii. Cleaning of the entrance and communal areas in 26 Brunswick Terrace
 - iii. Maintenance of the entry phone system for 26 Brunswick Terrace
 - iv. Electricity charges for the entrance and communal areas of 26 Brunswick Terrace
 - v. Repairs and maintenance to the lift in 26 Brunswick Terrace.
- b. There was a leak beneath the floor in their flat that was not repaired within a reasonable time - had the leak been attended to when first reported, they would not have suffered 6 months of flooding, and the repair costs would have been cheaper.
- c. The Defendants stated they were withholding their service charges until the following were resolved:
 - i. That they were no longer responsible to pay for elements that they do not enjoy:
 - 1. Lift maintenance, repair and replacement,
 - 2. Electricity charges for the common hallway and stairs,
 - 3. The maintenance and repair of the entry phone system in the main building and the cleaning of all common areas.
 - ii. That Claimants reviewed the unfair percentages of costs and charges.
 - iii. The matter is to be taken to the First-tier Tribunal for a legal outcome and decision.
- d. On 04/09/24, the Claimant wrote to the respondent that the outstanding arrears for 2022 and 2023 were £2,905.24 and £2,577.91, respectively. These sums were paid to the managing agent on 27/01/25 after the claim was issued.
- e. Interest was challenged on the basis of the Claimant taking 3 years to 'concede' the Defendant's arguments.

- f. Costs were challenged on the basis of the fact that the Defendant had tried to get agreement in a reasonable fashion. Had their complaints been addressed in 2022 when they were raised, no interest would have been due, and no legal costs would have been incurred by either party.

Counterclaim

38. On the face of the 'statement of fact' filed for the set aside application, there is a counterclaim, and that counterclaim was transferred from the County Court. The counterclaim appears to be for unreasonable service charges and failure to carry out repairs within a reasonable time.
39. The Defendants had made an application to the FtT for the determination of service charges, but this was struck out for non-compliance

The Law

LTA 1985 s19 deals with reasonableness

40. Section 19

19 Limitation of service charges: reasonableness.

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period—

(a) only to the extent that they are reasonably incurred, and

(b) where they are incurred on the provision of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

27A Liability to pay service charges: jurisdiction

41. Section 27A

27A (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to—

- (a) the person by whom it is payable,*
- (b) the person to whom it is payable,*
- (c) the amount which is payable,*
- (d) the date at or by which it is payable, and*
- (e) the manner in which it is payable.*

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to—

- (a) the person by whom it would be payable,*
- (b) the person to whom it would be payable,*
- (c) the amount which would be payable,*
- (d) the date at or by which it would be payable, and*
- (e) the manner in which it would be payable.*

(4) No application under subsection (1) or (3) may be made in respect of a matter which—

- (a) has been agreed or admitted by the tenant,*
- (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,*
- (c) has been the subject of determination by a court, or*
- (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.*

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—

- (a) in a particular manner, or*

*(b) on particular evidence,
of any question which may be the subject of an application
under subsection (1) or (3).*

*(7) The jurisdiction conferred on the appropriate tribunal in
respect of any matter by virtue of this section is in addition to
any jurisdiction of a court in respect of the matter.*

Service charge s18 LTA 1985

42. LTA 1985 defines service charge in s18.

“18 Meaning of “service charge” and “relevant costs”

*(1) In the following provisions of this Act “service charge” means
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 or part of which varies or may vary according to
the relevant costs.*

*(2) The relevant costs are 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.*

(3) For this purpose –

(a) “costs” includes overheads, and

*(b) costs are relevant costs in relation to a service charge
whether they are incurred, or to be incurred, in the period for
which the service charge is payable or in an earlier or later
period.”*

Interpretation

43. The Supreme Court in *Arnold v Britton* [2015] UKSC 36 (per Lord
Neuberger PSC at [15]) sets out the principle for contract interpretation:

*“When interpreting a written contract, the court is concerned to
identify the intention of the parties by reference to ‘what a
reasonable person having all the background knowledge which
would have been available to the parties would have understood
them to be using the language in the contract to mean’, to quote
Lord Hoffmann in Chartbrook Ltd v Persimmon Homes Ltd*

[2009] UKHL 38; [2009] 1 A.C. 1101 at [14]. And it does so by focussing on the meaning of the relevant words, in this case cl.3(2) of each of the 25 leases, in their documentary, factual and commercial context. That meaning has to be assessed in the light of:

- (i) the natural and ordinary meaning of the clause;*
- (ii) any other relevant provisions of the lease;*
- (iii) the overall purpose of the clause and the lease;*
- (iv) the facts and circumstances known or assumed by the parties at the time that the document was executed; and*
- (v) commercial common sense; but*
- (vi) disregarding subjective evidence of any party's intentions."*

44. In *Francis v Phillips* [2014] EWCA Civ 1395, which was decided before the Supreme Court in **Arnold v Britton**, it was also made clear that there are no special rules of construction for service charges. In that case the position was explained as follows:

"72. The starting point is that ordinary principles of contractual interpretation apply to the relevant provisions of the Lease. The meaning of a contract is that which a reasonable person who has all the background knowledge which would reasonably have been available to the parties to the contract in the situation in which they were at the time of the contract would have understood the parties to have meant. In deciding that meaning, the court must have regard to all the relevant circumstances....The more unreasonable a particular interpretation the less likely the parties can have intended it, and if they do intend it the more necessary it is that they shall make that intention abundantly clear...If there are two possible interpretations, that it is to say real ambiguity, the court is entitled to prefer that one which is consistent with business common sense and to reject the other."

The issues, reasons and findings

Issue 1: Whether the Service Charges and Reserve Fund Contributions are Payable Under the Lease

45. This is a matter within the Tribunal's jurisdiction.

Consideration

46. The Tribunal considered the terms of the Lease, in particular clauses 1.1, 1.3, 4 and 5:

1.1 "the Building" means the whole of the property of which the premises hereby demised forms part of and known as 11 Brunswick Street West and 26 Brunswick Terrace, Hove, East Sussex together with the forecourts basement areas gardens and boundary walls adjacent thereto all of which is registered at HM Land Registry under the above mentioned Title Number and shown edged blue on Plan attached hereto

1.3 "a fair proportion" means such proportion (which may mean the whole) as the Landlord's Surveyor may reasonably decide as being properly attributable to the Premises and if not agreed to be referred to a Surveyor appointed by the President of the RICS whose decisions shall be final and binding so that any written decision so made by such Surveyor shall be final and binding on all parties

4. THE Tenant HEREBY COVENANTS with the Landlord that the Tenant and all persons deriving title under him will throughout the Term

4.1.1 Pay the said rents at the times and in the manner aforesaid without any deduction

4.1.12 To pay all costs charges and expenses (including legal costs on a solicitors and own client basis) incurred by the Landlord in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925 in respect of the Premises notwithstanding forfeiture is avoided otherwise than by relief by the Court and also to pay all costs incurred by the Landlord (including legal and surveyors fees) incurred in connection with the recovery of rent or service charge hereunder or in connection with the remedying of any breach of covenant hereunder or in relation to the preparation and service of a schedule of dilapidations such amounts to be recoverable as rent in arrear

4.2 At all times during the Term to pay by way of further rent in manner hereinafter a fair proportion of the "Annual Maintenance Cost" as hereinafter defined (hereinafter called "the Tenant's Share")

4.3.5 The "Annual Maintenance Cost" shall be the total of all sums actually spent by the Landlord during the period to which the relevant Annual Maintenance Account relates in connection with the management and maintenance of the Building

47. The Tribunal considered the Landlord's obligations under clause 5, which include:
- a. insuring the Building (clause 5.1.1);
 - b. maintaining the structure, roof, foundations, boundary walls, communal pipes, drains and cables serving the Building (clause 5.3);
 - c. decorating the exterior of the Building (clause 5.4)
 - d. employing managing agents and contractors (clause 5.5); and
 - e. maintaining, cleaning and lighting the communal entrances, passages, staircases and common parts together with the entry phone system serving the Building (clause 5.6)
48. The only evidence before the Tribunal of the service charge % assigned to each property as "a fair proportion" comes from Mr Staples. He told the Tribunal that the % applied was inherited from the previous managing agent.
49. The Tribunal notes that there is a mechanism within the Lease to challenge the % assigned to each Lease as a "a fair proportion". This mechanism requires the matter to be referred to a Surveyor appointed by the President of the RICS whose decisions shall be final and binding on all parties.
50. The Tribunal further notes that, save for the non-compliant witness statement from Mr Gravett stating that the % is unfair, there is no suggestion as to what would be fair.
51. There is nothing in the Lease stating that the service charge is tailored by flat size or use; the services the landlord is obliged to provide are for the whole building, and the landlord must then assign a fair proportion. If the fair proportion is to be challenged, then the mechanism in clause 1.3 has to be followed.

Findings

52. The Tribunal finds:

- a. The service charges as demanded in paragraph 30 above are payable under the Lease.
- b. The reserve fund sums as demanded in paragraph 30 above are payable under the Lease.

Issue 2: Reasonableness

53. This is a matter that the Tribunal has jurisdiction over.

Consideration

54. The Defendants' s27A application has been struck out. The Tribunal was left with a defence/non-compliant witness statement that stated that the % assigned to the Defendants is unreasonable, not that the sum itself is unreasonable.
55. In the defence, it stated that the Defendants were withholding their service charges until the following were resolved:
 - i. That they were no longer responsible to pay for elements that they do not enjoy:
 1. Lift maintenance, repair and replacement,
 2. Electricity charges for the common hallway and stairs,
 3. The maintenance and repair of the entry phone system in the main building and the cleaning of all common areas.
 - ii. That Claimants reviewed the unfair percentages of costs and charges.
 - iii. The matter is to be taken to the First-tier Tribunal for a legal outcome and decision.
56. Items i-iii do not challenge the reasonableness of the sum within the account/demand, just the unreasonableness of having to pay it. As set out above, there is a mechanism under the Lease to challenge the service charge % proportion allocated to the Gravetts, that mechanism has not (based on the evidence before the Tribunal) been utilised.

57. Even if the sum itself was unreasonable, there is no evidence from the Defendants about what would be a reasonable sum.

Findings

58. Whether viewed through the contractual mechanism in clause 1.3 or through the evidence before the Tribunal, the Defendants have not established that the proportions applied are unfair.
59. The Tribunal, based on the evidence available, finds that the service charges demanded in paragraph 30 above are reasonable in terms of both proportion and amount.

Issue 3: The Insurance Allegations and Counterclaim

60. The defence/counterclaim argues that the water leak repair work in the Property was not carried out within a reasonable time, and that there was a second leak, and again the water leak repair work was not carried out within a reasonable time thereby increasing the costs, therefore the costs are unreasonable.
61. This is a matter that the Tribunal has jurisdiction over.

Consideration

62. The burden rests upon the Defendants to establish the factual basis of any counterclaim, the evidence within the non-compliant witness statement is scant, making bare assertions. The Defendants say:

This is because over the years since this early engagement the property has been poorly managed. My property and also Flat 11 have suffered a number of serious leaks that have gone unrepaired for many months and on occasion years.

While repairs and maintenance have been done to the front of the property and internally at 26 Brunswick Terrace, little has been done to the sides and rear of the property and while this is unsightly it is also allowing water ingress that is damaging my property.

The front of the property has been repaired and painted, the lift has been subject to a number of expensive repairs and other elements of the main building have been subject to maintenance.

In the past 2 years I have has serious leaks under my kitchen floor when a mains water pipe burst. This was reported but it took 6 months to get the building management to repair. The leak was so bad that in those 6 months the escaped water flooded the entire flat under every floor.

The outcome was that my family had to move out of the flat for 6 months while every floor was lifted, the flat dried out and then rebuilt.

Had the leak been attended to when first reported I would not have suffered 6 months of flooding and the repair costs would have been cheaper.

63. Mr Staples has set out the timeline of the water leaks, repairs, and insurance claims in his witness statement. The Tribunal notes that Mr Staples says that there was only one water leak and the later issue was condensation.
64. In the Defendant's own case, which is at best an untested witness statement, they do not set out any timeline.

Findings

65. The Tribunal finds, based on Mr Staples' evidence, that it is more likely than not that the water leaks, repairs, and insurance claims were carried out within a reasonable time.

Issue 4: Interest

66. This is a matter that the County Court has jurisdiction over, and I make these findings/decisions on my own as a judge of the County Court.

Consideration

67. I am not permitted to raise arguments or defences that a party does not raise, and the Defendants did not challenge the rate on the basis that it was an unfair term or punitive. All the Defendants have said is:-

I dispute the part of this claim for interest on my arrears for the Claimants as the situation has been caused by 26BT (the Claimants) and their legal representatives. It has taken them 3 years to concede my arguments.

68. I note the letter dated 04 September 2024 from the Claimant's solicitor to the Defendants, stated:

Applying your percentage of 8.25% to the Schedule A expenses and 8.87% to the Schedule B expenses, the interim sums due for 2022 would amount to £2,577.91 and the interim sums due for 2023 would amount to £2,905.24. The company now invites you to pay the undisputed sums together with the legal fees incurred to date and such sums are to be paid with interest now accrued on the arrears in accordance with the terms of the lease at the rate of 15% per annum. The interim demands for each year were raised in March and October 2022 and therefore interest is calculated from March and October as to 50% each of the above sums, in accordance with the attached interest schedule.

In addition, legal fees have been incurred for which you are liable under the terms of your lease due to the default and to date amount to £1100 plus VAT. Should you fail to pay and it's necessary for us to commence proceedings on behalf of our client, this correspondence will be put before the Court on the question of costs.

The total therefore currently payable by you with no admission as to the balance is £6,999.00 (after deduction of £1,000 received 9 August 2023).

If you make payment of all of the sums due including the interest, our client will agree to enter into an informal or formal mediation with you within the next 56 days to discuss the sums which you object to.

69. The Defendant has incorrectly relied on this letter as evidence that the Claimant had conceded the Defendant's argument. This letter simply says, pay what is undisputed, and we will talk about the charges that you are objecting to.
70. I do have concerns about the Claimant returning to the Defendant the £5,483.15, which was paid to it as a result of the Claimant issuing a County Court Claim, and then continuing to charge 15% interest on the total sum. I have noted Ms Fisher's submissions regarding the need for the Claimant to reserve the right to forfeiture, but I do not accept that there was no mechanism available to hold the funds pending the outcome of these proceedings and reduce the interest claimed, and simultaneously reserve the right to forfeiture.
71. I asked Ms Fisher to send in a recalculation of the interest and she replied as follows:

For ease of reference, the Claimant's pleaded interest to 14 November 2024 was £2,018.15.

Without prejudice to the Claimant's position regarding the legal effect of the returned payments made by the Defendants on 27 January 2025, and solely for the purpose of assisting the Tribunal with alternative calculations should it consider those payments relevant to the assessment of interest, the Claimant calculates interest at 15% per annum as follows:

- Interest on £10,925.55 from 15 November 2024 to 27 January 2025 (74 days): £332.26.*

- On the assumption that the payments made on 27 January 2025 (and returned) are taken into account for the purposes of calculating interest from that date, interest on £5,442.40 from 27 January 2025 to 17 June 2026 (506 days): £1,131.72.*

*On that basis, the further interest accrued after 14 November 2024 would be £1,463.98, giving a total interest figure of **£3,482.13** as at 17 June 2026.*

*For completeness, the Claimant's primary position remains that contractual interest is recoverable in accordance with the Lease and the Tribunal's findings as to the sums due and payable. As set out at the hearing, on the Claimant's primary case contractual interest continues to accrue at the pleaded daily rate of £4.44, resulting in a total interest figure of **£4,588.91** as at 17 June 2026. The alternative calculation above is provided solely for the Tribunal's assistance should it consider the returned payments made on 27 January 2025 are relevant to the assessment of interest.*

72. The Lease permits interest to be charged on sums owed under clause 4.3.4 as follows. The wording is:

4.3.4 If any of the sums which are required to be paid by the Tenant in accordance with this clause shall not be paid within fourteen days after the same shall have become due then without prejudice to any other right or remedy of the Landlord hereunder the same shall forthwith be recoverable by action and the same shall carry interest at four per cent over the Barclays Bank Plc base rate for the time being or the rate of fifteen per cent per annum (whichever shall be the higher) until payment

Findings

73. Having considered the terms of the Lease and the fact that the Gravetts made a part payment on a claim issued by the Claimant's, I find it would be wrong to allow 15% of the total sum when the Defendants made a part

payment on the claim, and it was the Claimant who rejected the payment, returning it to the Gravetts.

74. Interest is payable under the lease at the rate of 15% from the date 14 days after the demand.

75. I find that the post-hearing calculation is flawed for two reasons

a. The sum paid on 27 January 2025 would have been applied to pay off the oldest debts and their interest.

b. The Lease permits interest to be charged on sums owed under clause 4.3.4 14 days after the sum was due. The wording is (**my emphasis**):

*4.3.4 **If any of the sums** which are required to be paid by the Tenant in accordance with this clause **shall not be paid within fourteen days after the same shall have become due** then without prejudice to any other right or remedy of the Landlord hereunder the **same shall forthwith be recoverable by action and the same shall carry interest** at four per cent over the Barclays Bank Plc base rate for the time being or the rate of fifteen per cent per annum (whichever shall be the higher) until payment*

c. Giving this clause its ordinary meaning, the interest does not accrue until 14 days after the sum was due. Looked at another way, I am satisfied that if the sum demanded was paid on day 10, then no interest would be due.

76. Having done the calculation on the basis that the Claimant is allowed interest at 15% from 14 days after the sums were due, and the £5,483.15 would have been paid off the oldest debt and interest. The interest due up to 17 June 2026 is £2,171.36.

Issue 5: Costs

77. The issue of the legal costs recoverable under the Lease, is a matter that the County Court has jurisdiction over and I make these findings/decisions on my own as a judge of the County Court.

Consideration

78. The lease permits the recovery of legal costs:

4.1.12 To pay all costs charges and expenses (including legal costs on a solicitors and own client basis) incurred by the Landlord in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925 in respect of the Premises notwithstanding forfeiture is avoided otherwise than by relief by the Court and also to pay all costs incurred by the Landlord (including legal and surveyors fees) incurred in connection with the recovery of rent or service charge hereunder or in connection with the remedying of any breach of covenant hereunder or in relation to the preparation and service of a schedule of dilapidations such amounts to be recoverable as rent in arrear

79. The particulars of the claim dated 12 December 2024 state at para 6:

6. Pursuant to Clause 7 of the Lease the Claimant has a right to forfeit the Lease if the Ground Rent and / or Service Charge is in arrears for 21 days. These proceedings are brought in order to determine the sums payable by the Defendant, so that the Claimant can serve a Notice pursuant to section 146 of Law of Property Act 1925.

80. On 29 January 2025, the Claimant's legal representative wrote to the Defendant saying:

Please ensure that we receive settlement of the sum due within seven days, failing which we anticipate instructions to issue proceedings with a view to forfeiture without any further reference to yourself. Please note that if we are instructed to issue proceedings this will result in further interest and costs being added to the debt and may also affect your future credit rating

81. On 17 March 2025, the Claimant's legal representative wrote to the Defendant saying:

We have now received Judgment from the Court in this matter as per the attached. Failure to make payment by the due date which is 20th March will result in forfeiture proceedings being issued.

82. On 20 April 2025, there is a charge on invoice 16195 for the serving of Section 146 Notice.

83. Mr Staples does not provide any evidence about when the landlord began contemplating proceedings under Sections 146 and 147 of the Law of Property Act 1925.

Findings - Period

84. Based on the evidence I have, I find that it was not until the preparation of the particulars of the claim, i.e., issuing the claim in December 2024, that proceedings under Sections 146 and 147 of the Law of Property Act 1925 were contemplated.
85. I find that the indemnity costs permitted under the terms of the Lease run from 01 December 2024, this allows a period of time before the pleadings were signed off for proceedings under Sections 146 and 147 of the Law of Property Act 1925 to have been ‘contemplated’.
86. Before 01 December 2024, as costs incurred were not in the contemplation of proceedings under Sections 146 and 147 of the Law of Property Act 1925.

Findings - Reasonableness

87. Costs on the indemnity basis are presumed to be reasonable, however the court will not, on either basis (standard or indemnity), allow costs which have been unreasonably incurred or are unreasonable in amount, see CPR 44.3.
- a. **Management fees £120:** The management fees are pleaded separately to the service charge. The Claimant’s witness had no details or rationale for this charge; I find them to be unreasonably incurred.
- b. **Hourly rates:** The hourly rates exceed the solicitors’ national guideline rates. The fees for Grade A ranged from £300, £5 over the national guideline, to £390, some 30% over the national guideline. The fees for Grade D were some 40% over the national guideline. I am not permitted to allow costs that are unreasonable in amount, and therefore, I find that the national guideline rate for National 1 (Dean Wilson LLP are based in Brighton) should be used.

Findings - Costs calculation

88. On the evidence available, and applying a broad evaluative judgment, I removed the work on documents and time claimed incurred before 01 December 2024.
89. I adjusted the hourly rates to National 1 Grade A £295 and Grade D £142.

90. On the evidence available, and applying a broad evaluative judgment to the N260 Statement of Costs, I find that the relevant costs recoverable under the Lease are £20,000, inclusive of VAT and disbursements.

Issue 6 – The counterclaim

91. This is a matter that the County Court has jurisdiction over, and I make these findings/decisions on my own as a judge of the County Court.

Consideration

92. The Gravetts did not attend the hearing, their N244 statement in support of the County Court set-aside application has been treated as their defence and counterclaim, save for that witness statement they have not filed or served any evidence relating to the counterclaim in the Tribunal proceedings.
93. The N244 statement in support of the County Court set-aside application, but this is a non-compliant witness statement and untested in cross-examination. As set out above in Issue 3, the evidence in that witness statement supporting a counterclaim for failure to carry out repairs within a reasonable time is weak and the evidence of Mr Staples is preferred.

Findings

94. For those reasons, the counterclaim fails and is dismissed.

Determinations

95. The Tribunal determines that:
- a. The service charges arrears are as per the claim form, being £10,925.55;
 - b. The sums are reasonable.
96. Sitting as a judge of the County Court, I find that:
- a. The contractual interest up to and including 17 June 2026 is £2,171.36;
 - b. Management fees of £120 as set out in para 7 of the particulars of claim are not recoverable; and

- c. The contractual costs of £20,000, inclusive of VAT and disbursements, are recoverable under the Lease.

Orders

97. The following orders are made under the County Court jurisdiction and are set out in a separate order:

Claim and Counterclaim

- *The claim is allowed.*
- *The counterclaim is dismissed.*

Money Judgment

- *By 4pm on 03 August 2026, the Defendants shall pay the Claimant £13,096.91, which is broken down as follows:*
- *Service charges and reserve fund contributions from 25/03/2022 to 24/03/2025: £10,925.55*
- *Interest: £2,171.36*
- *After 03 August 2026, interest will accrue on the full service charge sum currently £10,925.55, at the contractual rate of 15%, less any payments made, currently amounting to £4.44 per day.*

Costs

- *By 4pm on 03 August 2026, the Defendants shall pay the Claimant's costs summarily assessed on the indemnity basis at £20,000 inclusive of VAT and disbursements.*
98. For convenience, the total amount payable under the judgment and costs order is £33,096.91, the payment is due by 4 pm on 03 August 2026.

Applications under s.20C LTA 1985, para 5A of Sch. 11 CLRA 2002 and/or refund of fees

99. There is no live application by the Defendants for i) an order s.20C LTA 1985, ii) under para 5A of Sch. 11 CLRA 2002 or iii) for the refund of fees as their application was struck out, therefore no orders are made.

Name: Tribunal Judge E Bowden

Date: 06 July 2026

RIGHTS OF APPEAL

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

1. A written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case at the Regional office which has been dealing with the case by email at rpsouthern@justice.gov.uk.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the date this decision is sent to the parties.
3. If the application is not made within the 28-day time limit, such an application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must state the grounds of appeal and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.

Annex 1 – the Lease

1.1 "the Building" means the whole of the property of which the premises hereby demised forms part of and known as 11 Brunswick Street West and 26 Brunswick Terrace, Hove, East Sussex together with the forecourts basement areas gardens and boundary walls adjacent thereto all of which is registered at HM Land Registry under the above mentioned Title Number and shown edged blue on Plan attached hereto

1.2 "the Premises" means all those rooms on the lower ground floor of the Building and shown edged red on plan number 1 attached hereto and including the floors of the Premises and the joists and beams thereunder and the ceilings of the Premises and (subject to clause 8.2 hereof) the internal walls of the Premises and the plaster on the walls and the internal surfaces the window frames and glass in the windows of the Premises together with all additions alterations and improvements thereto and also all landlords fixtures fittings plant machinery and equipment now or hereafter in or about the same as the same is shown for the purpose of identification only edged red on the Plan attached hereto

1.3 "a fair proportion" means such proportion (which may mean the whole) as the Landlord's Surveyor may reasonably decide as being properly attributable to the Premises and if not agreed to be referred to a Surveyor appointed by the President of the RICS whose decisions shall be final and binding so that any written decision so made by such Surveyor shall be final and binding on all parties

4. THE Tenant HEREBY COVENANTS with the Landlord that the Tenant and all persons deriving title under him will throughout the Term

4.1.1 Pay the said rents at the times and in the manner aforesaid without any deduction

4.1.12 To pay all costs charges and expenses (including legal costs on a solicitors and own client basis) incurred by the Landlord in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925 in respect of the Premises notwithstanding forfeiture is avoided otherwise than by relief by the Court and also to pay

all costs incurred by the Landlord (including legal and surveyors fees) incurred in connection with the recovery of rent or service charge hereunder or in connection with the remedying of any breach of covenant hereunder or in relation to the preparation and service of a schedule of dilapidations such amounts to be recoverable as rent in arrear

4.2 At all times during the Term to pay by way of further rent in manner hereinafter a fair proportion of the "Annual Maintenance Cost" as hereinafter defined (hereinafter called "the Tenant's Share")

4.3.1¹ The Tenant shall contribute and pay to the Landlord the Tenant's share of the Annual Maintenance Costs as hereinafter defined

4.3.4 If any of the sums which are required to be paid by the Tenant in accordance with this clause shall not be paid within fourteen days after the same shall have become due then without prejudice to any other right or remedy of the Landlord hereunder the same shall forthwith be recoverable by action and the same shall carry interest at four per cent over the Barclays Bank Plc base rate for the time being or the rate of fifteen per cent per annum (whichever shall be the higher) until payment

4.3.5 The "Annual Maintenance Cost" shall be the total of all sums actually spent by the Landlord during the period to which the relevant Annual Maintenance Account relates in connection with the management and maintenance of the Building and shall include but not by way of limitation:-

4.3.5.1 The cost of procuring or providing any sums required in connection with the same where they exceed the monies for the time being held by the Landlord as payments on account of annual maintenance charges or as a reserve fund

4.3.5.2 The costs of and incidental to the performance and observance of each and every covenant on the Landlords part contained in clause 5 of this Lease

¹ There appears to be a numbering error as the pages are sequential but the is from 4.3.1 rather than 4.2.1

4.3.5.3 The annual rentals or other expenditure involved in supplying and maintaining an internal telephone system (if any) and such communal television and/or radio aerial system (if any) as may from time to time be installed in the Building

4.3.5.4 The costs of and incidental to compliance by the Landlord with every notice regulation or order of any competent local or other authority in respect of the . Building or any part or parts thereof

4.3.5.5 All fees charges expenses and commission payable to any agent or agents whom the Landlord may from time to time employ for managing and maintaining the Building

4.3.5.6 All fees charges and expenses payable to any Solicitor Accountant Surveyor Architect or other professional or competent advisor whom the Landlord may from time to time employ in connection with the management and/or maintenance of the Building and in or in connection with enforcing the performance observance and compliance by the Tenant and the tenant of the other premises demised at the Building of their obligations and liabilities

4.3.6 In addition to the items of cost and expenditure mentioned or referred to in subclause 4.3.5 of this clause there shall be included in the Annual Maintenance Cost such sums as the Landlord or its managing agents or Surveyors shall in their absolute discretion consider desirable to be retained by the Landlord by way of a Reserve Fund as provision for the costs expenses outgoings and other matters mentioned or referred to in sub-clause 4.3.5 of this clause

5. The Landlord HEREBY COVENANTS with the Tenant as follows

5.1.1 The Landlord will at all times during the Term (unless such insurance shall be vitiated in whole or part by any act or default of the Tenant) keep the Building (including the Premises) and the Landlord's fixtures fittings and furnishings apparatus and chattels in and about the Building) insured in the full reinstatement value (as determined by the

Landlord's Surveyor) under a policy or policies complying with the terms of this clause

5.3 That the Landlord will maintain and keep in good and substantial repair and condition:-

5.5 That the Landlord will employ or engage such staff whether whole or part time firms companies and individuals as shall be necessary to carry out any duties which the Landlord may require in complying with his obligations hereunder or in his own Administration

5.6 That the Landlord will:-

5.6.1 maintain and keep in good and substantial repair and condition and decorative order the main entrances passages landing staircases and other parts of the Building and the passages leading thereto enjoyed or used by the Tenant in common as aforesaid

5.6.2 so far as practicable keep clean and reasonably lighted the passages landings staircases and other parts of the said Building so enjoyed or under by the Tenant in common as aforesaid and will maintain for the use of the Tenant and other lessees of in the Building any entry phone system serving the Building

7. IF the rent hereby reserved or any part thereof shall be unpaid for twenty one days after becoming payable (whether formally demanded or not) or if any covenant on the Tenant's part herein contained shall not be performed or observed it shall be lawful for the Landlord at anytime thereafter to re-enter upon the Premises or any part thereof in the name of the whole and thereupon this demise shall absolutely determine but without prejudice to the right of action of the Landlord in respect of any breach of the Tenant's covenants herein contained