FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	HAV/24UH/LAC/2026/0001
Property	:	Flat 9 The Grange, 38 New Brighton Road, Emsworth, Hampshire, PO10 7QP
Applicant	:	Paul Bromwich
Representative	:	In person
Respondent	:	Sykes Capital (GR) Limited
Representative	:	In person
Type of Application	:	Determination of liability to pay an administration charge and the amount payable
Tribunal Members	:	Judge P Pattni-Evans
Date and venue of Hearing	:	Paper Determination
Date of Decision	:	5 August 2026

DECISION

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INTRODUCTION

1. This is an application made under Schedule 11 of the Commonhold and Leasehold Reform Act 2002 for the determination of the payability of sub—letting charges levied by the Respondent on the Applicant, who is a long leaseholder and sublets his flat from time to time. The charge levied is an underletting registration fee of £90.

2. The Applicant also seeks a determination in relation to two invoices of £50 for arrears of management charges dated 16 March 2024 and 25 July 2025. The Applicant further seeks orders pursuant to section 20C of the Landlord and Tenant Act 1985 and paragraph 5a of Schedule 11 of the Commonhold and Leasehold Reform Act 2002.

3. This matter has been determined on the papers. The Tribunal has considered the representations from both parties which are provided in the hearing bundle. The absence of specific reference to any document, authority, or submission in this decision should not be taken to indicate that it has not been considered. In preparing this decision, the Tribunal has had regard to the Senior President of Tribunals' Practice Direction: *Reasons for Decisions* dated 4 June 2024.

LAW

4. An "administration charge" is defined in paragraph 1(1) of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as: an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly- (a) (b) (c) (d) for or in connection with the grant of approvals under his lease, or applications for such approvals, for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant, in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise

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than as landlord or tenant, or in connection with a breach (or alleged breach) of a covenant or condition in his lease.

5. Sub-paragraphs (2) and (4) make it clear that the Tribunal has jurisdiction in this regard whether any payment has been made unless, among other things, the matter has been agreed or admitted by the tenant. The Applicant explains in his statement of case that a payment was made but that this was ‘under protest’ and he maintained his objection. No challenge to that assertion is made by the Respondent. The Tribunal determines the matter accordingly.

The Charges and the Relevant Lease Terms

Underletting Registration Fee £90

6. There are no disputes of fact in this case which would have a material bearing on the outcome, the issues turn on the proper interpretation of the lease. The parties have helpfully provided a copy of and referred to the main provisions of a lease agreement dated 30 March 2007 between GP3 Developments Limited (1) and Kenneth James Gordon Harvey Ross (2) for Flat 9, the Grange, 39 New Brighton Road, Emsworth, Hampshire, PO10 7QP (‘the Lease’). It is common ground that the Applicant has sub-let his flat under an assured shorthold tenancy, an activity which predated the Respondent’s involvement in this Property. The Respondent is a subsidiary of Skyes Capital Ltd, and the freehold was transferred to it with effect from 1 April 2024.

7. The starting point for determining this matter is the wording of the Lease. Clause 1(25) explains that the headings are included for ease of reference only and do not affect the interpretation or construction of the lease. The specific terms engaged for present purposes are:

Clause 3(9) Assignment and Underletting

(i) *Not to assign transfer let or part with possession of part only of the Demised Premises.*

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(ii) *Not to underlet the whole of the Demised Premises for a period exceeding three years without the prior written consent of the Lessor which consent shall not be unreasonably withheld or delayed in the case of an intended underlessee who covenants with the Lessor in the form reasonably approved by the Solicitors then acting for the Lessor (who fees shall be payable by the Lessee) such deed to include (but not but way of limitation) covenants for the payment of the rents payable hereunder*

Clause 3(10) Registration of Assignment Etc

(i) *Within twenty eight days of an assignment or charge or other permitted devolution relating to the demised premises to produce for registration with a lessor's solicitors such deed or document or a certified copy thereof and to pay the lessors solicitors registration fee equal to 0.05% of the notice value as hereinafter defined.*

8. In the Tribunal's view, clause 3.9 expressly regulates underletting, and the clause must be given its ordinary meaning. On its proper construction, it does two things, firstly, it prohibits the underletting of part only of the Demised Premises and secondly, it requires the Lessor's prior written consent only where the whole of the Demised Premises is underlet for a term exceeding three years. The clause contains no requirement for consent in respect of an underletting of the whole for a term of three years or less. There is no basis for reading into the provision restrictions which are not expressed.

9. The Tribunal rejects the Respondent's submission that such an underletting incurs a charge. Clause 3.10, read as a whole, applies to "an assignment or charge or other permitted devolution relating to the Demised Premises". The provisions clearly distinguish between assignments and underletting in clause 3.9, where both concepts are expressly addressed. Had the parties intended clause 3.10 to apply to underletting, they could readily have said so.

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10. The Lease contains no definition of "devolution" and no other provision indicating that the expression was intended to encompass the grant of a short tenancy which would not transfer the legal estate. Conversely, where express ‘permission’ is required, it is for a term of three years or more. So far as it would be possible to suggest the phrase ‘permitted devolution’ encompasses an implied permission, in the Tribunal’s view, that does not accord with a straightforward interpretation. When the paragraph is read as a whole, the reminder plainly envisages more exacting documentation that would ordinarily be associated with the transfer of a legal interest.

11. In the Tribunal’s view, this interpretation also accords with the manner in which the Notice Value should be calculated - clause 3(10)(ii) refers to the consideration as set out in the document being registered or where the value is nominal, for the last dealing or value *relating to the Demised Premises*. The Respondent’s solution to this was to find market evidence for other properties sold within the building and applying the formula of 0.05%. In the Tribunal’s view that is incorrect more so given that the terms of the Lease specifically refer to this ‘Demised Premises’ not to some other flat within the building.

12. Reading clauses 3.9 and 3.10 together, the better construction is that clause 3.10 concerns assignments, charges and other forms of devolution of the leasehold interest itself, whereas clause 3.9 separately governs underletting. Accordingly, the grant of the Applicant's assured shorthold tenancy did not give rise to any obligation to register the transaction or pay the registration fee claimed by the Respondent.

13. The Tribunal is therefore not satisfied that the Applicant’s grant of an assured shorthold tenancy gave rise to any liability to pay a registration fee.

Invoices management charges dated 16 March 2024 for £60 incl VAT and 25 July 2025 for £50

14. The Applicant’s main contention is that there is no clause within the Lease permitting the Respondent to levy a management fee for the late payment of

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ground rents on the basis that such fees are permitted within the framework of the Lease only where forfeiture is contemplated. Furthermore, the Applicant contends that in its true form, it is an impermissible fixed sum penalty.

15. The relevant terms of the Lease referred to are:

Clause 11 Cost of Notice under Lease s146 and 147
To pay to the Lessor all costs and charges and expenses (including Solicitors' Counsel's and surveyors cost and fees) incurred by the Lessor:

- *(i)* *In or in contemplation of any proceedings in respect of this lease under section 146 and 147 of the Law and Property Act 1925 notwithstanding that forfeiture is avoided otherwise than by relief granted by the court*
- *(ii)* *of and incidental to the contemplation of and service of all notices and schedules relating to wants of repair and non-payment of rent and service charge or the performance and observance of the covenants contained in this lease.*

16. The Respondent relies upon clause 11(ii), which permits the recovery of costs, charges and expenses incurred in connection with notices relating to the non-payment of rent and service charges and the observance of the covenants contained in the Lease. The Respondent submits that the administration charge falls within that provision.

17. The Tribunal accepts that clause 11(ii) is capable of permitting the recovery of costs incurred as a result of unpaid ground rent. However, the clause is a costs recovery provision. Its operation depends upon costs, charges or expenses having actually been incurred by the Respondent in dealing with the default.

18. The Respondent has provided no evidence of any work undertaken, notices served or costs incurred in connection with the arrears. The Respondent relies upon an email dated 16 March 2024 stating that an "arrears management charge" was payable "for our time in writing to you and recovering this debt". An invoice was attached describing the charge as an "Arrears Management

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Charge - Non-Payment of Ground Rent". However, neither the email nor the invoice identifies any work undertaken, time spent or cost incurred. In the absence of supporting evidence, the Tribunal is unable to conclude that the sum claimed represents costs or expenses recoverable under clause 11(ii)

19. On the evidence before it, the Tribunal finds that the charge is more properly characterised as a fixed charge levied upon the occurrence of late payment rather than reimbursement of costs actually incurred in dealing with the arrears. This finding is supported by the fact that the two invoices are both for the flat rate of £50, the difference being VAT on the first. The Tribunal is not satisfied that the provisions relied on by the Respondent confers an entitlement to recover such a charge.

20. The Tribunal has considered the Respondent's alternative submission that the charge is recoverable under clause 4(7). However, even if that provision were engaged, the submission suffers from the same difficulty. On the facts of this case, the charge levied is properly characterised as a late payment charge rather than a charge reflecting costs actually incurred in dealing with the arrears. In the absence of evidence that such costs were incurred, the Tribunal is not satisfied that the charge is recoverable under clause 4(7).

21. Accordingly, as the Tribunal determines that the arrears management charges are not payable it is therefore unnecessary to determine the issue of reasonableness.

CONCLUSION AND S.20C/PARA 5A AND APPLICATION FEE

22. The Tribunal determines that the registration fee claimed by the Respondent in respect of the Applicant's assured shorthold tenancy is not payable under the terms of the Lease. The Tribunal further determines that the arrears management charge is not payable.

23. Accordingly, the Tribunal determines pursuant to paragraph 5 of Schedule 11 to the Commonhold and Leasehold Reform Act 2002 that neither charge is payable by the Applicant.

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24. The Applicant seeks an order pursuant to section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

25. Having regard to the Tribunal's findings and the fact that the Applicant has substantially succeeded in the application, the Tribunal considers it just and equitable to make the orders sought. Pursuant to section 20C of the Landlord and Tenant Act 1985, the Tribunal directs that none of the costs incurred by the Respondent in connection with these proceedings may be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant. Pursuant to paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002, the Tribunal directs that the Respondent may not recover through an administration charge any costs incurred, or to be incurred, in connection with these proceedings.

26. The Applicant has succeeded in the application. The Tribunal directs that the Respondent reimburse the Applicant's application fee within 28 days of this decision.

APPEAL RIGHTS

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

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

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

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