



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

Case Reference	: HAV/00HR/LSC/2025/0820
Property	: 31 Moorhills, Grenville Road, Wimborne, Dorset, BH21 2BQ
Applicant	: The Estate of Carole McGuinness Vincent McGuinness (Executor)
Representative	: Curve Legal Solicitors
Respondent	: Moorhills Flats Limited
Representative	: RPC Legal
Type of Application	: Rule 8(2) of the Procedure Rules, Application for Reinstatement Determination of liability to pay and reasonableness of service charges Section 27A Landlord and Tenant Act 1985
Tribunal Member	: Tribunal Judge Pattni-Evans
Date of Decision	: 15 September 2026

DECISION

This is a formal order of the Tribunal which must be complied with by the parties. The parties must comply with the Statement of Tribunal Rules and Procedure.

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.

Introduction

1. This is a decision on the preliminary issue of whether the application should be reinstated Rule 8(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the Procedure Rules').
2. The Applicant's application is for the determination of liability to pay and the reasonableness of service charges for the years 2020 to 2023, it was received on 13 November 2025, and initial directions were issued for a case management and dispute resolution hearing on 8 May 2026.
3. At the CMH, Judge Skinner identified various preliminary issues that ought to be determined prior to the application moving forward. Specifically, the Applicant required permission under Rule 8(2) of the Procedure Rules to pursue this application outside the 28-day time limit imposed by Rule 22 of the Procedure Rules. This is because the Applicant had previously applied to the Tribunal for a determination under section 27A of the Landlord and Tenant Act 1985 ('the 1985 Act'), over the liability to pay and the reasonableness of the same service charges for the same period. For reasons that are set out below, the application was withdrawn on 13 May 2025.
4. The parties were directed to file and serve their representations dealing with the following:
 - a. Following the withdrawal of application HAV/00HR/LSC/2024/0640 on 13 May 2025, reasons as to why the application was not made within

28 days of 13 May 2025 and an explanation for the delay in applying thereafter;

- b. For the Applicant to set out clearly the basis upon which it is claimed the Applicant has legal standing to make this application on behalf of the Estate of Carole McGuinness (with appropriate supporting evidence);
 - c. In addition, for the Applicant to clearly set out what benefit to the Estate of Carole McGuinness any positive determination may have in real terms and why the Applicant believes this application if it were granted permission to proceed is not “frivolous” for the purposes of Rule 9(3)(d) of the Procedure Rules (with appropriate supporting evidence); and
 - d. In addition, the Applicant must also clearly set out why the settlement of the arrears at the point of sale does not amount to an admission under section 27A (4)(a) of the 1985 Act (with appropriate supporting evidence).
5. The Tribunal’s directions were complied with, and this has narrowed the issues. It is no longer contended by the Respondent that the Applicant has no standing to bring these proceedings. The estate of Carole McGuinness is properly represented by the Applicant in these proceedings, and he has provided a copy of the grant of probate. The Tribunal is satisfied that the Applicant has standing in these proceedings.
6. Similarly, the Applicant does not suggest (although does not specifically admit) that breach of procedure rules is a not serious matter. The application was not made until six months after the previous case HAV/00HR/LSC/2024/0640 was withdrawn on 13 May 2025. The time limit under Rule 22(6) is mandatory and, as contended by the Respondent there is significant public interest in the finality of litigation (citing *Martland v HMRC* [2018] UKUT 178 (TCC)). The Tribunal finds that the breach of the procedure rules in this case was serious.

7. The matter has been considered as suitable for paper determination under Rule 31 of the Procedure Rules, neither party requests a hearing.

Background

8. The property is a ground floor two-bedroom flat known as 31 Moorhills, Grenville Road, Wimborne, Dorset, BH21 2BQ ("the Flat"). The Flat forms part of a wider residential development comprising three blocks of flats. The Applicant is the son of the late Carole McGuinness, who was formerly the leaseholder of the Flat. It is understood that the leasehold interest was sold in or around March 2024, during her lifetime. The Applicant seeks to challenge the reasonableness and payability of various service charge items incurred during the period in which his late mother owned the Flat.
9. The lease produced by the Applicant identifies Mr Simon Grimston as the tenant and Imberhorne Investments Limited as landlord. The management company, referred to as MFL, is party to the lease and acts in relation to the management of the development on behalf of leaseholders. Symonds & Sampson ("S&S") were appointed as managing agents.
10. The application is made pursuant to section 27A of the Landlord and Tenant Act 1985, seeking a determination as to whether various service charges demanded between 2020 and 2023 are payable and/or reasonably incurred. The charges in dispute span the service charge years 2020 to 2023 and include managing agent fees, insurance premiums, fire risk assessment costs, maintenance and landscaping works, garage and gate repainting, asbestos removal works, roof replacement works, cleaning costs and other expenditure.
11. The Applicant seeks reimbursement of service charges paid during the period in which his late mother was the leaseholder. The application originally identified the sum claimed as £11,903.99, although an updated position statement refers to service charge years extending to 2024 and a total sum of approximately £12,373.

12. In terms of the application history, the Applicant and his mother Carole McGuinness first applied on 17 November 2024 under reference HAV/00HR/LSC/2024/0640/EMG to challenge the historical service charges. Whilst those proceedings were ongoing, on 7 May 2025, the Applicant's mother suffered a heart attack. The application was withdrawn on 13 May 2025 due to her ill-health and the Applicant felt unable to proceed with it. A case management hearing listed for 16 May 2025 was then vacated, and on 19 May 2025, the Applicant's mother passed away. The Procedure Rules permitted a period of 28 days for reinstatement of the claim, however no application for was made within that period.
13. On 17 September 2025, there was a grant of probate, the Applicant issued fresh proceedings on 13 November 2025 under HAV/00HR/LSC/2025/0820 raising the same issues as set out in the earlier application.

Legal Framework

14. The initial 28-day time limit arises under Rule 22(6) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('Procedure Rules') which says that any party may within 28 days after notification of withdrawal, apply for it to be reinstated.
15. Rule 8(2) provides that if a party in tribunal proceedings fails to comply with a requirement of the FTT Rules, or a practice direction or direction, the FTT "may take such action as the Tribunal considers just". A non-exhaustive list of responses is then listed, including waiving the requirement, requiring that it be remedied, striking out a party's case, or "barring or restricting a party's participation in the proceedings".
16. Rule 9 of the Procedure Rules set out the Tribunal's power to strike out a case, as follows:

9 (2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal—

(a) does not have jurisdiction in relation to the proceedings or case or that part of them; and

(b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.

17. In an application to reinstate a decision where there has been procedural non-compliance, the framework in *Denton v TH White* [2014] EWCA Civ 906, [2014] WLR(D) 299 applies as well as the overriding objective as set out in Rule 3 of the Procedure Rules. The approach in *Denton* involves three stages: (i) identify and assess the seriousness of the failure to comply; (ii) consider why the default occurred; (iii) evaluate all the circumstances of the case to enable the court to deal justly with the application(s).
18. When considering this framework, the judgment of Martin Rodger KC, Deputy Chamber President of the Upper Tribunal in *Deane v London Borough of Newham* [2024] UKUT 3000, is of particular relevance in that, he urged caution against an overly rigid adoption of the CPR Rules, and therefore the test, as against the more flexible procedure rules of the FTT. Furthermore, applying *Haziri v Havering LBC* [2019] UKUT 330 (LC), there was a relevant exception to the general rule that the strength of a party's case was irrelevant when case management was being considered: if the proper outcome of a case was clear at an early stage, a court would deal with it summarily, without a full trial. To that end, the strengths and weaknesses of the parties' respective cases are of relevance.
19. In relation to whether an admission may operate to defeat a case, the Respondent refers the Tribunal to the case of *G & A Gorrara Ltd v Kenilworth Court Block E RTM Co Ltd* [2024] UKUT 81 (LC); [2024] L. & T.R. 25, specifically:

The point of section 27A(4) is that payment alone does not convey enough information to enable the inference of agreement; it all depends. In circumstances where the tenant delayed before challenging the charge or charges and had the information during that time to raise a challenge, then the payments in those circumstances may indicate agreement.”

Decision on Preliminary Issues

20. The Tribunal has carefully considered the parties’ position statements, case authorities and witness statements. In preparing these reasons, the Tribunal has had regard to the Senior President of Tribunals’ Practice Direction, Reasons for Decisions, dated 4 June 2024 and has focused only on those issues requiring determination.

Explanations for the Delay

21. The seriousness of procedural non-compliance does not, of itself, preclude the grant of relief. The Tribunal must also consider the reason for the delay.

22. At the time he withdrew the claim in May 2025, the Applicant was a litigant in person. Had he been legally represented, he explains in his witness statement that he did not understand that a withdrawal could mean that he was abandoning his claim. The Tribunal accepts that explanation and determines that either way, the underlying legal position required resolution before the proceedings could properly continue. Therefore, some delay was inevitable.

23. However, after 17 September 2025, the Respondent is correct to submit that the Applicant ought to have acted with greater expedition in seeking reinstatement.

24. In practical terms, the Applicant pursued a fresh application raising the same issues as those advanced previously, and no material changes were made before that application was submitted. The Applicant seeks to account for the further

delay by citing reason of his own ill-health, personal grief and the practical and legal process of administering an estate. He also says he was experiencing chest pains and was unfit to work between 6 October 2025 and 2 November 2025.

25. The Tribunal accepts that this provides some explanation for part of the delay, but the circumstances do not fully account for the entirety of the delay after 17 September 2025.
26. Whilst this factor therefore weighs against the grant of relief, the Tribunal is not unsympathetic and has regard specifically to the overriding objective, and in particular Rules 3(2)(b) and (c) namely to avoid unnecessary formality and to allow the parties so far as practicable to participate in the proceedings; the issue of delay must be considered alongside all the circumstances of the case.

Circumstances of the Case

27. The Respondent argues that the application is without merit and refers to vague and unsubstantiated assertions from the application form. For example, the Applicant repeatedly contends that fire safety concerns were neglected, particularly flat entrance fire doors. However, he does not identify what element of those charges is challenged, what sum ought to have been charged instead, or why the charges themselves were unreasonable. His complaint concerning the fire report appears to relate to the implementation of its recommendations rather than to the reasonableness of the cost of obtaining the report.
28. Similarly, a recurring theme of the Applicant's case is that leaseholders were not provided with 'sufficient information' concerning works, procurement processes and expenditure. The Applicant claims the insurance was 'invalidated' because of fire safety works not being carried out, he says that there was therefore no point in spending money on an insurance policy – and therefore claims a 'refund' of money spent on insurance policies. The Respondent says those concerns are not presently articulated in a manner

which identifies how the disputed charges were unreasonable nor realistically, what determination the Tribunal is being asked to make.

29. Similar difficulties arise in relation to the remaining years. In several instances the Applicant alleges that expenditure was unnecessary, inadequately explained, or procured at excessive cost, but without identifying the evidential basis for those assertions. In other instances, alternative costs are suggested without supporting evidence. Certain major works also appear to have been the subject of statutory consultation under section 20, yet the Applicant does not explain the basis upon which those processes are said to be impugnable several years later.
30. The Respondent contends that the application is frivolous as it offers no real benefit to the estate, any outcome being limited to a service charge credit or accounting adjustment. The Applicant is also said to have accepted the charges by paying them bi-annually, so liability affecting a sale 'misses the point'. Relying on *Gorrara Ltd*, the Respondent argues that the consistent payment of service charges, coupled with concerns raised since 2020, amounts to acquiescence and is fatal to the application.
31. The Applicant responds to these criticisms by saying that the application sufficiently identifies by year and category the principal items of service charge expenditure challenged and the substantial sums in dispute. Although, he does appear to accept that his case could be set out with more clarity. The Applicant also says that the sums in dispute in the substantive application represent a material proportion of the estate's overall value, it is not a sum which could be characterised as trivial nominal or not worth pursuing.
32. The Applicant says that payment of the service charges was made as a practical necessity to enable the sale of the property to complete, as conveyancing practice typically requires service charge accounts to be cleared before completion. But the only evidence he can offer is that 'he was not aware of any negotiation or discussion with the Respondent or its managing agents as to the amount or reasonableness of the sums paid'.

33. The Applicant further argues that treating such payments as barring a later challenge would undermine the purpose of section 27A, as leaseholders compelled to pay disputed charges to facilitate a sale would lose the statutory protection intended to safeguard them from unreasonable service charges.
34. Finally, the Applicant argues that no third party would suffer any unfair prejudice if this specific dispute were determined on its merits whereas refusing permission would permanently deprive the estate and its beneficiaries of the opportunity to obtain a determination of a claim that was originally commenced by Carole McGuinness during her lifetime.
35. Having regard to the representations that have been made, the Tribunal makes the following findings.
36. The Respondent is a right to manage company whose funds are derived from its leaseholders. The application concerns service charges incurred from 2020 to 2023, and potentially 2024. Any retrospective adjustment of those charges has the potential to affect other leaseholders and the management of the building.
37. In those circumstances, it is important that the matters in dispute are clearly identified and properly particularised. In this case, they are not. The costs and management burden associated with defending inadequately particularised proceedings are likely to ultimately to fall upon those leaseholders – the Applicant is no longer a leaseholder and has no contractual relationship with the Respondent. This is a further factor which the Tribunal is entitled to take into account when considering all the circumstances of the case under Rule 3(2)(a) of the Procedure Rules.
38. The Tribunal finds that a large part of the Applicant's case, in its current form, is speculative and does not clearly identify the relevant terms of the Lease in issue, nor the basis upon which the 'categories of expenditure' are being challenged.

39. The Tribunal accepts that an applicant under section 27A is not required at the outset to *prove* the entirety of his case. However, applying the ratio in *Deane*, the Tribunal considers that this case falls squarely within the *Haziri* exception. The application is before the Tribunal for a second time and it is lacking in focus. The examples relied on by the Respondent as set out above in paragraphs 27 to 29 underscore the flaws in the application. Put simply, in a section 27 challenge, assertions that matters could have been better managed are irrelevant unless and until there is an identifiable service charge cost in issue. The Tribunal therefore considers that the underlying merits of the application, at least in its current form, are the strongest factor against the exercise of discretion for reinstatement.
40. The Tribunal accepts that reinstatement of proceedings will almost invariably occasion some inconvenience to a respondent, but the Tribunal must also bear in mind the overriding objective and the practicalities of this application. Notably, the Applicant requests the provision of documents which, may or may not exist some six years later, and would cause administrative disruption for the Respondent. The Applicant inevitably needs to re-plead his case (with or without documents), and even though this doesn't need to be done with a significant level of formality, the underlying point remains that all of this will incur increased litigation costs and delay contrary to the overriding objective, specifically Rules 3(2)(a) and (e).
41. On the point of frivolousness, the Tribunal is more cautious about making a positive finding. There is, notably, no evidence around the sale of the Flat in 2024 – as was directed by Judge Skinner. There is no evidence to support the 'commercial' basis upon which the final service charge accounts were settled.
42. The Respondent says the Applicant glosses over the fact that the service charges were settled bi-annually in the preceding years when the Applicant, on his own case, had sufficient knowledge to raise a contemporaneous challenge. The Applicant say that he and his late mother had been disputing the reasonableness of the service charges from around 2020 onwards. If that is correct, then the Applicant had sufficient knowledge of the matters now relied

upon to challenge the charges at that time. The Respondent is therefore entitled to observe that the issues now raised are substantially the same issues that were being raised several years earlier.

43. However, the Tribunal is more cautious about drawing any positive inference from the circumstances in which the service charge accounts were ultimately settled. The evidence before the Tribunal on that issue is limited. In particular, there is no evidence from the late leaseholder herself as to her understanding of the position, the advice she may have received, or the reasons why she agreed to the settlement. Yet, she was a named applicant on the previously withdrawn case which is an indication that there was dispute. However, those are matters that could only properly be addressed through evidence from the deceased, which is no longer available. In those circumstances, the Tribunal does not consider it appropriate or necessary to make findings as to the motives or intentions underlying the settlement, beyond observing that payments were clearly made.
44. Taking all the circumstances into account, the Tribunal accepts that there was a good reason for the delay up to 17 September 2025. Nevertheless, the lack of any satisfactory explanation for a part of the subsequent delay, the absence of a clearly articulated and properly particularised underlying claim, the resulting prejudice to the Respondent collectively outweighs the factors favouring reinstatement.
45. The application to reinstate under Rule 8(2) of the Procedure Rules is therefore dismissed.

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.