FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/23UB/LSC/2025/0831
Property	**:**	46A Canterbury Walk, Cheltenham, Gloucestershire GL5 13HG
Applicant	**:**	Antonia Saragkas and Nikolaidou Chrysovalantou (leaseholder)
Representative	**:**	In person
Respondent	**:**	Mark Trevor Ratcliffe and Judith Anne Ordish (freeholder and leaseholder)
Representative	**:**	In person
Type of Application	**:**	Determination of liability to pay and reasonableness of service charges Section 27A Landlord and Tenant Act 1985
Tribunal Members	**:**	Tribunal Judge Pattni-Evans Professional Member Mrs T Wong
Date and venue of Hearing	**:**	30 September 2026
Date of Decision	**:**	08 October 2026

DECISION

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INTRODUCTION

1. The Applicants sought a determination under section 27A of the Landlord and Tenant Act 1985 as to whether service charges for the period 2024 to 2029 were payable and, if so, whether they were reasonable. The application included a copy of a lease, a survey report dated 27 February 2024, and a damp and mould report dated 15 October 2025. It was agreed that no service charge demands had in fact been issued.

JURISDICTION

2. The Tribunal first considered whether it had jurisdiction to determine the issues raised. The Lease was originally granted as a tripartite lease, including the developer pre-conversion. The current parties to the proceedings are, however, the successors in title to the freehold and leasehold interests respectively, and no separate interest is now held by either of the intermediate landlord entities named in the Lease.

3. The Applicants state that the building now comprises two maisonettes, one at ground floor level and one at first floor level. It is a semi-detached dwelling. The Lease, however, refers to a building comprising four maisonettes. The Tribunal was not provided with evidence as to when or how the present arrangement came about, although the parties considered that alterations occurred following conversion in or about the 1960s.

4. The Applicants, who are the leaseholders of the ground floor flat 46A, identified a number of issues which they sought the Tribunal to determine, namely:

   Which party is responsible for repairs under the lease for external walls, structural elements and damp related defects for the years 2024-2029?
   Whether the freeholders have failed in their repairing obligations?
   Whether the costs claimed or proposed by the freeholders are properly recoverable under service charges?
   Whether the freeholders' recent actions contradict their earlier refusals, resulting in unreasonable or inconsistent management?
   How clause 7 of the lease applies and the effect of the freeholders' refusal to engage with it?
   Whether the legal admin, professional fees can be charged?
   Whether future charges can be applied?

Whether the freeholders attempt to appoint an unregistered or unverified 'structural engineer' was reasonable and compliant with lease obligations?

5. Although the application was expressed as one brought under "section 27A" of the 1985 Act, upon hearing from the parties it became apparent that the application was, in substance, one seeking clarification of the parties' rights and obligations under the Lease. The application did not refer to any subsection of section 27A, given that the Applicants were litigants in person, and that neither party appeared to be especially familiar with the statutory framework governing service charges, that omission is unsurprising.

6. To that extent, the Tribunal was satisfied that it had jurisdiction under section 27A(3) of the 1985 Act to decide whether particular costs would be payable through the service charge and to interpret the relevant terms of the lease for that purpose. Neither party objected to the Tribunal doing so.

7. However, the Tribunal does not have a general supervisory jurisdiction in this type of application in relation to the management of residential property, nor is it empowered to determine whether a landlord has acted reasonably in all respects, whether a landlord has breached its repairing obligations, or whether future service charges may be levied in circumstances where no demand has been made and no liability has arisen – as arises on the facts of this case. Likewise, questions concerning the appropriateness of the Respondents' choice of professional advisers do not, without more, constitute matters falling for determination under section 27A of the 1985 Act.

ISSUES

8. The Tribunal therefore limited the scope of the issues to the following matters:

> (a) which party bears responsibility under the lease for repairs to the external walls, structural elements and damp-related defects;
> (b) whether costs claimed or proposed by the Respondents are capable of recovery through the service charge; and
> (c) the proper construction and application of clause 7 of the lease insofar as that issue is relevant to the determination of liability for service charges.

9. The relevant provisions of the Lease are set out in full at **Annex 1**.

LAW

10. Under Section 27A(3) of the 1985 Act:

> *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.*

11. The Tribunal applies the principles of contractual interpretation, as summarised by Lord Neuberger in *Arnold v Britton* [2015] UKSC 36 at [15]. The court's task is to ascertain the objective intention of the parties from the language used, considering the lease as a whole, its factual and commercial context, and commercial common sense, while disregarding subjective intentions.

12. More specifically, where premises include a floor or room bounded by an external wall, the demise will generally include the whole of that wall, unless the lease provides otherwise or the context indicates a different intention: *Delgable Ltd v Perinpanathan* [2005] EWCA Civ 1724. As a landlord's repairing obligations normally extend only to retained parts and a tenant's obligations to demised parts, the allocation of repair responsibilities may depend on whether the relevant element forms part of the demise.

Issue (a) which party bears responsibility under the lease for repairs to the external walls, structural elements and damp-related defects;

13. When addressing the Tribunal, the parties focused on clause 3(iv), under which the tenant covenants to:

> *"bear and pay a reasonable proportion … towards the expense of supporting rebuilding cleansing and repairing all passageways pathways sewers drains pipes water courses water pipes cisterns gutters party walls party structures*

chimney stacks and roofs fences easements and appurtenances belonging to used or capable of being used by the tenant in common with the landlord and the tenants or occupiers of the properties to which the demised premises are adjacent or of which they form part."

14. The Tribunal gained limited assistance from this provision. This is because it does not stand in isolation from other parts of the Lease. In keeping with the cases referred to above, the Tribunal must consider the Lease as a whole.

15. The property demised by the lease is 46A Canterbury Walk, being the ground floor maisonette. Clause 2 provides that the "Demised Maisonette" includes, amongst other things, the land and foundations immediately beneath the property, the external and internal walls of the maisonette, and one half (divided horizontally) of the reinforced concrete block forming the ceiling of the demised premises and the floor of the maisonette above, subject to certain specified exclusions.

16. So that it is clear to the parties, a leaseholder is called a tenant, and a freeholder is called a landlord because the lease is a legal agreement between them. Even if the leaseholder has bought their flat, they are still the tenant under the lease, and the freeholder remains the landlord.

17. At 3(ii) is a tenant's covenant, by which the tenant covenants at his own expense to:

> *"effectually and substantially to repair uphold support maintain drain cleanse fence and keep in repair the demised premises ... and all party and other walls, sewers drains gutters rainwater pipes fences fixtures easements and appurtenances thereto belonging."*

18. Read together, these provisions distinguish between those parts of the structure that form part of the demise, for which the tenant assumes direct repair obligations under clause 3(ii), and those parts used in common with other occupiers, in respect of which the tenant is required by clause 3(iv) to contribute a reasonable proportion of the costs incurred in repair and maintenance.

19. The Lease expressly includes within the demise the foundations, external walls and certain structural elements of the building. Clause 3(ii) imposes a broad obligation on the tenant to "effectually and

substantially" repair, uphold, support, maintain and keep in repair the demised premises. The Tribunal therefore concludes that, as a matter of construction, responsibility for repairing those parts of the building comprised within the demise falls in principle on the tenant. Clause 3(iv) does not transfer those obligations to the landlord; rather, it provides for the tenant to contribute towards the cost of repairing certain structures and facilities used in common with other occupiers.

20. On the facts of the case, the Tribunal was not provided with sufficient evidence as to the precise nature, location or cause of the defects identified by the parties. It is therefore unable to make findings of fact as to whether any specific item of alleged disrepair falls within the demise, constitutes a shared structure within the scope of clause 3(iv), or gives rise to a repairing obligation on the part of either party.

21. Accordingly, the Tribunal's determination is confined to the proper construction of the Lease and the allocation of repairing responsibilities in principle. Whether responsibility for any particular defect, including any damp-related defect, rests with the tenant or the landlord will depend upon the nature and location of the defect in question and cannot be determined on the evidence before the Tribunal.

Issue (b) whether costs claimed or proposed by the Respondents are capable of recovery through the service charge; and

22. The evidence before the Tribunal identified only one specific item of expenditure, namely the cost of an inspection in the sum of £350 plus VAT but no demand in respect of this cost had in fact been issued. The issue arose only because the Applicants sought clarification as to whether such costs would be recoverable if incurred.

23. The question for the Tribunal is therefore not whether the sum is presently payable, but whether, as a matter of lease construction, the cost of obtaining professional advice or reports in relation to the investigation of repair issues is capable of recovery through the service charge.

24. The Respondents relied upon clause 3(iv), contending that the tenant's obligation to contribute towards the costs of supporting, rebuilding and repairing shared structures was sufficiently broad to encompass the reasonable costs of obtaining expert advice, surveys or reports necessary to identify, investigate or specify repair works.

25. The Tribunal accepts that, in principle, expenditure reasonably incurred on obtaining professional advice or reports which are ancillary to repair works falling within clause 3(iv) may be capable of recovery as part of the relevant repair costs. However, given that no demand has been made and that the Tribunal has insufficient evidence regarding the precise circumstances in which the inspection was commissioned, its purpose, or the nature of any resulting recommendations, the Tribunal is unable to determine whether this particular invoice would ultimately be recoverable.

Issue (c) the proper construction and application of clause 7 of the lease insofar as that issue is relevant to the determination of liability for service charges

26. Clause 7 of the Lease provides a mechanism for the resolution of disputes between tenants concerning, amongst other matters, party walls, structures, roofs, drains, repairs and contributions towards the expenses arising from them. Where the parties agree to be bound by the process, the dispute is to be determined by the landlord's surveyor, whose determination is stated to be final and binding on the tenant.

27. The parties' disagreement in relation to clause 7 concerned the qualifications of the surveyor instructed by the Respondents – presumably in their capacity as tenants of the upper maisonette. The Tribunal does not consider that the suitability or qualifications of a particular surveyor fall within the scope of a determination under section 27A(3) of the 1985 Act.

28. Indeed, the Lease confers the relevant appointment function on the landlord, not the tenant. The clause merely identifies the landlord's surveyor as a decisionmaker. The tenant's protection lies instead in the statutory requirement that any service charge costs sought to be recovered must be reasonably incurred and, where relevant, reasonable in amount.

COSTS AND APPLICATION FEE

29. The Tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002. The Tribunal also declines to order reimbursement of the Applicants' application fees.

30. During the hearing, the Respondents referred to an application for costs on the basis of unreasonable conduct. The Tribunal has reviewed

the procedural history and notes that this application was made in separate proceedings brought by the Applicants under section 168 of the Commonhold and Leasehold Reform Act 2002. It is therefore not an issue before the Tribunal in these proceedings.

31. The Tribunal determines that each party is to bear its own costs.

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.

Appendix A: Lease Covenants

Reddendum (extract)

*[…] and the Landlord hereby demises unto the Tenant ALL THAT maisonette or suite of rooms known as or intended to be known as Number 46A Canterbury Walk on the Warden Hill Estate in the Parish of Leckhampton in the County of Gloucester (hereinafter called "the Demised Maisonette") and being the ground floor maisonette at the north west end of the building comprising three other similar maisonettes shown coloured blue on the Plan annexed hereto (hereinafter called "the Building") TOGETHER with the pieces of land shown coloured pink and yellow on the said plan TOGETHER with the rights and interests mentioned in the First Schedule hereto but subject to the exceptions and reservations mentioned in the Second Schedule hereto all of which premises excepted and reserved as aforesaid are hereinafter called "the demised premises") (sic) TO HOLD the demised premises unto the Tenant for the term ….]**

*Note: The Tribunal was not provided with plans referred to in the Lease.

Clause 2

For the purpose of this lease the Demised Maisonette shall be deemed to include the land and foundations of building immediately below the Demised Maisonette the external and internal walls of the Demise Maisonette and the ceiling above the same to the extent of one half (divided horizontally) of the reinforced concrete block forming such ceiling in the floor of the maisonette immediately above but shall exclude the external stairway leading to the maisonette immediately above the demised maisonette all walls or other structures forming a boundary between the demised maisonette and parts of the building not included in this lease shall be deemed to be party walls within the provisions of section 38 one of the Law of Property Act 1985.

Clause 3

The tenant for himself his executors administrators and assigns hereby covenants with the landlord and as a separate covenant with the freeholder:-

[…]
(ii) at all times during the said term at his own expense effectually and substantially to repair uphold support maintain drain cleanse fence and keep and repair the demised premises including the fences marked on the said plan within the boundary of the demised premises and all future buildings upon the demise premises and all party and other walls sewers drains gutters rainwater pipes fences fixtures easements and appurtenances thereto belonging.

[…]

(iv) At all times during the said term to bear and pay a reasonable proportion to be assessed by the surveyor for the time being of the landlord towards the expense of supporting rebuilding cleansing and repairing all passageways pathways sewers drains pipes water courses water pipe cisterns gutters party walls party structures chimney stacks and roofs fences easements and appurtenances belonging to used or capable of being used by the tenant in common with the landlord and the tenant or occupiers of the properties which the demise premises are adjacent to or from part.

Clause 7

It is hereby agreed and declared between the freeholder landlord and the tenant that in case at any time during the demise any dispute shall arise between the tenant and any other of the tenants of the freeholder or the landlord relating to the premises to them respectively demised or the party or other walls structures roofs fences ways sewers drains pipes or watercourses and other rights easements or appurtenances whatsoever relating to or belonging thereto or any repairs thereto or the contributions in respect of the expenses arising therefrom then and in every such case such dispute (provided the other party thereto shall have agreed to become bound so as to refer to the same) shall be referred to the determination and award of the Surveyor for the time being of the Landlord which determination and award shall be final and binding on the Tenant.