



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

Case reference : LON/00AF/LSC/2026/0043

Property : 210 Maple Road, Penge, London, SE20
7EZ

Applicant : Philip Walsh

Representative : In person

Respondent : Destefano Limited

Representative : Mr Destefano

Type of application : An application under section 27A
Landlord and Tenant Act 1985

Tribunal : Judge Dutton
Mrs A Kelly

**Date of hearing and
venue** : 7 October 2026 at 10 Alfred Place,
London WC1E 7LR

Date of decision : 8 October 2026

DECISION

Decisions of the tribunal

- (1) The tribunal makes the determinations as set out under the various headings in this Decision.
- (2) The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the lessees through any service charge.
- (3) The tribunal determines that the Respondent shall pay the Applicant £114 being the application fee and £227 being the hearing fee, a total of £341, within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges payable by the Applicant in respect of the service charge years 2021 to 2026.
2. In the application Mr Walsh sought a determination against Mr and Mrs Thorogood, who were the landlord when he bought in August 2024. However, the free hold changed hands in June 2026, and the current respondent acquired the property. By an order dated 15 July 2026. Destefano Limited where substituted as Respondent.

The hearing

3. The Applicant appeared in person at the hearing and the Respondent appeared through Mr Destefano.
4. Before the hearing we were supplied with a bundle of papers running to some 842 pages, together with a skeleton argument from Mr Walsh of a further 11 Pages. The bundle was unnecessarily populated with documents/correspondence which did not assist us. However, the bundle was produced in an excellent format for ease of navigation and Mr Walsh is thanked for that.

The background

5. The property which is the subject of this application is a self-contained two bedroomed two floored maisonette above commercial premises.
6. There were some photographs of the building were provided in the hearing bundle. 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.

7. The Applicant holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

The issues

8. At the start of the hearing the parties identified the relevant issues for determination as follows:
 - (i) The Respondent conceded that the demands, which were in fact not compliant with s21B of the Act, seeking a contribution to the insurance premium of 50% were erroneous and should have been limited to 5% as set out the lease of the property.
 - (ii) Mr Walsh asked us to determine how any repayment of the premium paid in excess of the 5% allowed for in the lease should be accommodated. This was swiftly dealt with as Mr Destefano, showing admirable pragmatism agreed that he would repay Mr Walsh the sum due within 28 days. Mr Walsh calculated that the sum presenting the overpayment of the insurance premium was £770.50, which was accepted by Mr Destefano. A further sum of £108, representing works to a fire door which had also been conceded as not recoverable was added to the amount agreed to be paid, taking the total to £878.50
 - (iii) Whether Mr Walsh should be required to make contribution to an element of the insurance for the property relating to the lost rent from the commercial premises.
 - (iv) Whether the apparent failure by the previous freeholders to deal with the accounting issues as per the lease were fatal to the Respondent recovering any service charge monies.
 - (v) the condition of the building and the landlord's obligation under clause 4(4) of the lease dated 3 September 2004 and made between Mr and Mrs Thorogood (1) and Malcolm Hicks (2) (the lease).
9. Having heard evidence and submissions from the parties and considered all of the documents provided, the tribunal has made determinations on the various issues as follows.

Building Insurance and service charge contribution

10. We can deal with this quite shortly. The lease clearly states under the 'Particulars and Definitions' that the "Service charge" is 5% of the expenditure incurred by the Lessor under clause 4(4), which includes insurance of the property. Mr Destefano accepted this, hence the concessions made before the

hearing. This percentage charge is the one that should be applied to Mr Walsh's liability to contribute to service charge costs as set out in clause 4(4) of the lease, going forward. The refund was a neat way of dealing with the monies as there appears to be no reserve fund operating into which any money could be deposited nor does it seem likely that a credit to Mr Walsh's service charge account would be appropriate, given that at present this seems to be confined to the annual insurance premium.

The tribunal's decision

11. The tribunal determines that the amount payable in respect of the refund of the service charges for the years 2024/5 and 2025/6, together with the fire door totals £878.50, which Mr Destefano has agreed to repay within 28 days. We should add that we did not consider that the earlier years were matters Mr Walsh could pursue as they were before he acquired the flat, apparently at auction in 2024.

Insurance for lost rent in respect of the commercial premises.

12. The lease sets out the insurance requirements at clause 4(4)(c). This includes reference to risks as are usually covered by a "Flat Owners Comprehensive Policy".

The tribunal's decision

13. We find that such a policy would not include a risk of loss of rent of a commercial property, even if conjoined. In those circumstances we find that the £20,000 cover, we are told, for loss of rent is an expense that should not be passed on to Mr Walsh. We were told that the additional premium was circa £40 per annum, which would give a liability to Mr Walsh of £2.

Accounting and non-compliance with the lease terms

14. The lease provides at the Fifth Schedule for the manner in which service charge monies are collected and provides that "*as soon as practicable after the expiration of the Accounting Period there shall be served upon the Lessee by the Lessor a certificate signed by the Lessor's Accountant containing...*"
15. This has not been done. However, Mr Walsh agreed that for the accounting years when the only item to be recovered was his contribution to the insurance premium, now fixed at 5% and it would seem ground rent of £100, this did not need the services and the expense of an Accountants certificate. Things will be different if major works are undertaken, which Mr Walsh believes are due.

The tribunal's decision

16. Whilst the lease provides for an Accountants Certificate it was agreed by Mr Walsh, appropriately we consider, that this was not an expense which should be incurred if the service charges are so limited. Accordingly, this is not a matter upon which we need to make a finding.

Building Condition

17. The papers included a report by Bradley Harris dated 2 January 2026 commissioned by Mr and Mrs Thorogood, which was disclosed to Mr Walsh by the present Respondents. This report was intended to address issues of damp in Mr Walsh's property. To be fair to the Respondent, they only acquired the property in the summer of this year. Mr Destefano confirmed they were aware of issues and that work is required.
18. We do not consider this is a matter for this Tribunal. There are no costs to review and allegations of breaches of the lease by the landlord are issues for the County Court.

S20C and tribunal fees.

19. At the end of the hearing, the Applicant made an application for a refund of the fees that he had paid in respect of the application/ hearing¹. This was agreed by Mr Destefano and should be repaid within 28 days of the date of this decision.
20. In the application form and confirmed at the hearing, the Applicant applied for an order under section 20C of the 1985 Act. Although the landlord indicated that no costs would be passed through the service charge, for the avoidance of doubt, the tribunal nonetheless determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act, so that the Respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.
21. We should like to thank Mr Walsh and Mr Destefano for the pragmatic approach adopted to this case. Hopefully matters will progress without the need of further recourse to this Tribunal.

Name: Judge Dutton

Date: 8 October 2026

Rights of appeal

¹ The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

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.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such 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.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).