FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	HAV/29UK/LSC/2026/0112
Property	**:**	Flat 10, The Edge, Mount Harry Road, Sevenoaks, Kent TN13 3JN.
Applicant	**:**	Sam Groves and Jessica Groves
Respondent Representative	**:**	Elysian Fields (UK) Ltd Ravi Sharma (Director)
Type of Application	**:**	Liability to pay and reasonableness of service charges; Sections 27A and section 19 of the Landlord and Tenant Act 1985
Tribunal Members	**:**	Judge C A Rai
Date type and venue of Hearing	**:**	12 November 2026 Paper determination Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules) Havant Justice Centre
Date of Decision	**:**	13 November 2026

DECISION

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1. Having examined the wording of the Lease of the Property, the Tribunal declares that the Landlord is responsible for carrying out (and paying for) structural repairs to the balcony of the Property. The wording of the Lease enables the Landlord to recover costs incurred in undertaking such repairs as service charges, in accordance with the mechanism contained in the Lease.

2. Reasons for the Tribunal's decision are set out below.

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Background

1. This application is for a determination of the liability to pay and reasonableness of service charges. It was made by the Applicant on 2 March 2026. The summary below does not refer to all the evidence he has provided. The issue for the Tribunal is relatively narrow and it is therefore not proportionate to the resources of the Tribunal to elaborate at length on everything disclosed.

2. The Property, flat 10, is a leasehold flat on level 4 (the top floor) of a building containing eleven flats. The lease of the Property is dated 3 July 2013 and was made between Elysian Homes Limited (1) Linda Margaret King (2) (the Lease) [33].

3. A leak was identified by the occupier of flat 7 on level 3 of the building within which the Property is located. That flat is immediately below the terrace within flat 10. The Respondent notified the Applicant about the leak and asked it to investigate and fix the leak. This is recorded in an email from Poonam Sharma, a director of the Respondent, dated 29 October 2023 [28], which she sent to the Applicant and copied to the managing agent HML.

4. When HML inspected Flat 10 in January 2024 the Applicant says Thomas Booty told him it was his responsibility to fix the leak. The Applicant has admitted that he did not check the Lease at that time.

5. Thereafter the Applicant says he obtained professional advice and instructed contractors, at all times keeping both the Respondent and HML informed of its actions and the cost of the repairs. He acknowledged that he carried out some enhancements for its own benefit as he wanted to improve the surface of the terrace which formed part of Flat 10. He has not suggested that anyone else is obliged to contribute towards those improvement or enhancement costs.

6. Works to repair the roof were started in July of 2024 and in September the Applicant looked at the wording of his lease and made an enquiry of HML and the Respondent about recovering a contribution towards the costs of the repair from the "maintenance fund". (The Tribunal has assumed he was seeking a contribution from service charge reserves, although nothing has been disclosed to confirm this and nothing turns on this).

7. Following the Applicant's reference to the Lease HML appear to have sought information and copies of documentation to commence an insurance claim, the significance of which is not clear. No further evidence was supplied. Thereafter HML commissioned an independent survey, to which the Respondent eventually agreed although it appears from the correspondence in the bundle that it was initially unwilling to fund the survey out of service charges. The fact that the Respondent

eventually agreed to fund the survey out of the service charges seems to have prompted the Applicant to reconsider why he should be solely responsible for the costs of the repair to the roof.

8. The survey, carried out by StructureHaus, supported the Applicant's claim that some works had been carried out to repair structural elements of the building of which the Property forms a part. The Applicant said that HML subsequently reported that part of the works should be classified as structural and that the cost of those works would have been recoverable as service charges, "had due process been followed"[113].

9. During the same period the Applicant complained to HML particularly on account of what he has now claimed was their misleading and incorrect advice that he was responsible for the roof repair. Following that complaint HML suggested that the Applicant made a tribunal application and that the costs of the work would not be recoverable as service charges because of a failure to consult the leaseholders before the costs were incurred.

10. This application originally sought reimbursement of costs which were incurred by the Applicant in repairing a terrace forming part of the Property the surface of which is included within his lease and used as their terrace. It is for that reason that it was considered as an application for a service charge determination.

11. Following a case management and conciliation hearing the Tribunal issued Directions dated 27 August 2026 which included a very clear statement by Regional Surveyor Coupe regarding its jurisdiction which I have reproduced below.

Paragraph 9
The Tribunal informed the Applicants that it does not have jurisdiction to grant all the relief sought, namely an order requiring the Respondent to reimburse sums which the Applicant contend were expended in error. However, the Tribunal shall determine the interpretation and application of the lease in regard to the subject matter. Any claim for reimbursement or recovery of monies already expended falls outside the Tribunal's jurisdiction and would need to be pursued, if so advised, through an alternative judicial forum. The Applicants accepted this limitation.

12. The parties were instructed to exchange statements of case and a bundle comprising 145 pages was prepared by the Applicant. The Respondent did not provide a statement. Its earlier position statement, for the most part, only addressed the Tribunal's lack of jurisdiction to grant the relief which the Applicant had originally sought. It did not address the correct interpretation of the lease or its obligations and responsibilities as

freeholder. Any references to numbers in square brackets in this decision are to the electronically numbered pages of the bundle.

13. Neither party objected to the Tribunal in writing to the application being determined without a hearing. A procedural judge reviewed the content of the bundle and directed that the application remained suitable for determination in accordance with Rule 31 without an oral hearing.

The Lease and the Law

14. Section 27 of the Act enables a Tribunal to make a determination as to whether a service charge is payable and by whom it is payable.

15. This application is not about a service charge, which has already been demanded. It seeks a determination as to who is responsible under the Lease of the Property for repairing the terrace in Flat 10 which forms the roof of Flat 7. The Applicant seeks a declaratory judgement interpreting the Lease.

16. The Property is defined as the flat on 4 of the Apartment Block known as the Edge, Mount Harry Road, Sevenoaks Kent TN13 3JN. (it appears the word "Level" was inadvertently omitted from the definition). It includes:-

    a. All doors and windows and their frames fittings and glass

    b. The floor surface only of the balcony or terrace if applicable

    (Paras 1.6 and 1.8 of Schedule 1) [53]

    Para 2 (on the same page) states "The Property shall not include any of the Retained Parts.

17. The Retained Parts are defined as "All parts of the Apartment Block other than the Property and the Flats including:-
    (a) the main structure of the Apartment Block including the roof and roof structures, foundations and external walls and internal load bearing walls the structural timbers the joists and the guttering and structure of the balconies (including any balcony railings or walls)
    (b) all parts of the Apartment Block lying below the floor surfaces or the ceilings
    (c) all external decorative surfaces of the Apartment Block and external doors, door frames and window frames;
    (d) the Common Parts ……."[41].

Reasons for the Decision

18. The wording of the lease includes "the floor surface only of these balcony or terrace". Any repairs or maintenance to that surface is the sole responsibility of the Tenant (as defined in the Lease). The Applicant therefore is responsible for all costs associated with "repairs or maintenance of the balcony or terrace surface.

19. The definition of the Retained Parts includes " the main structure" and also refers to roof structures. Insofar as repairs to the structure of the roof/ terrace were necessary to fix the leak from the terrace of the Property into flat 7 below, the Respondent is responsible for that repair and should have investigated the cause and instructed its Managing Agent to fix the problem.

20. Having regard to the Directions made by Regional Surveyor Coupe and the limited jurisdiction it is unnecessary for me to say anything more.

Appeals

1. A person wishing to appeal this decision to the Upper Chamber must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. 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. Where possible you should send your further application for permission to appeal by email to **rpsouthern@justice.gov.uk** as this will enable the First-tier Tribunal to deal with it more efficiently.

3. 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.

4. 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.