HM COURTS AND TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00HN/LSC/2011/0152

REASONS

Application: Section 27A of the Landlord and Tenant Act 1985 as amended ("the 1985 Act"), transferred from Croydon County Court under claim number 1UC71772

Applicant/Landlord: Mr John Dennis Piper

Respondent/Leaseholder: Mr Prasant Yogan Moorthy

Building: 25 Cavendish Road, Bournemouth, BH1 1QY

Flats: the flats in the Building

Date of Transfer from Croydon County Court: 13 October 2011

Date of Directions: 24 November 2011

Date of Hearing: 15 March 2012

Venue: Court 8, Bournemouth County Court, Deansleigh Road, Bournemouth, BH7 7DS

Appearances for Applicant/Landlord: Mr Piper

Appearances for Respondent/Leaseholder: Mr Ram Moorthy

Members of the Tribunal: Mr P R Boardman MA LLB (Chairman), Mrs J F Brownhill MA (Oxon), and Mr A J Mellery-Pratt FRICS

Date of Tribunal's Reasons: 15 March 2012

Introduction

1. In an action started in Bournemouth County Court, the Applicant/Landlord claimed from the Respondent/Leaseholder the sum of £2599.33, made up as follows :

Buildings insurance	
November 2005 to November 2006	£277.13
November 2007 to November 2008	£367.20
Ground rent and maintenance	

Due 1 January 2008	£550	
Less paid 5 July 2008	£250	£300
Ground rent and maintenance		
Due 1 January 2009	£550	
Insurance due November 2009	£328.36	
	£888.36	
Less paid 23 January 2009	£588.36	£300
Ground rent and maintenance		
Due 1 January 2010	£550	
Insurance	£288.40	
	£838.40	
Less paid 15 January 2010	£438.40	£400
Ground rent and maintenance		
Due 1 January 2011	£550	
Insurance	£288.40	
	£838.40	
Less paid 17 December 2010	£438.40	£400
Year 2004 maintenance balance		£164
Year 2005 maintenance balance		£194
Year 2006 maintenance balance		£197
		£2599.33

2. In a defence served with a letter from the Respondent/Leaseholder's solicitors dated 17 June 2011, the Respondent/Leaseholder stated that :
   a. his lease was dated 16 July 1999
   b. he had paid the ground rent of £150 a year to date
   c. the Applicant/Landlord had failed to serve a "summary of rights and obligations" as required by section 153 of the Commonhold and Leasehold Reform Act 2002 ("the 2002Act")
   d. in relation to any sums exceeding £250 claimed for works of repair, maintenance or improvement, the Applicant/Landlord had failed to comply with the requirements of section 20 of the 1985 Act
   e. where any of the alleged arrears were in respect of administration charges, the charges were not payable because they had not been accompanied by a summary of rights and obligations
   f. the Applicant/Landlord had failed to comply with section 20B of the 1985 Act, and any costs incurred 18 months or more earlier than being demanded were not payable

The documents before the Tribunal

3. The documents are :
   a. the application and supporting papers
   b. the Applicant/Landlord's bundle
   c. the Respondent/Leaseholder's bundle

4. References in these reasons to document numbers are to the numbered documents in the Respondent/Leaseholder's bundle

The lease of the Premises

5. The material parts of the lease are as follows :

Clause 1 (the demise)
..... to hold the same unto the Lessee for the term of 125 years from 1 May 1999 paying therefore [sic] during the said term for the first 25 years the rent of £150 per annum..... and also paying in addition throughout the said term by way of further rent from time to time one fifth of the amount which the Lessor may expend in effecting or maintaining the insurance of the whole property..... such further rent to be paid without any deduction on the quarter day next ensuing after such expenditure and to be recoverable by distress in the same way as rent in arrear

Clause 3 [forfeiture clause]

Clause 8 [provisions the giving of notice]

Fourth Schedule (Lessee's covenants)
3 *The Lessee shall pay a proportion of 1/5 of the costs charges and expenses incurred by the Less or in carrying out his obligations under the Fifth Schedule hereto as calculated in accordance with the Seventh Schedule hereto and such charges are hereinafter called "the maintenance charge"*

Fifth Schedule (Lessor's covenants)
2 [redecorate exterior of the Building and repair the land coloured brown on the plan]
3 [repair the main parts of the Building and cleaning and repairing common parts]
4 [insure the Building]

Seventh Schedule
1 *The maintenance charge payable by the Lessee shall be a yearly sum in respect of each year ending on 31 December payable in manner hereafter recited equal to one fifth of the total cost of the following:*
a. *the reasonable costs to the Lessor of complying with the covenants on the part of the Lessor contained in paragraphs 2 and 3 of the Fifth Schedule including the employment of contractors therewith*

b. *the fees and disbursements paid to any Managing Agents (if any) for the management of the building and the provision of services therein*
c. *the reasonable costs (including the costs to the Lessors auditors) of ascertaining the maintenance charge and the keeping of any necessary books of account*
d. *the contribution fixed annually by the Lessor to provide and reserve funds to cover accruing and anticipated expenditure in respect of the compliance of the covenants on the part of the Lessor*
e. *all other reasonable expenses (if any) incurred by the Lessor in and about the maintenance and proper and convenient management and running of the building*
f. *any value added or other tax payable in respect of any costs expenses outgoings or matters falling within any paragraph of this schedule*

2 *The maintenance charge shall be paid:*
a. *by payment on account of the sum conclusively estimated by the Lessor as being the likely maintenance charge for the year in question by two equal instalments on 1 January and 1 July in that year the first payment for the first year of this term to be in the sum of £250*
b. *the balance (if any) within 14 days of the service on the Lessee of a certificate of the Lessors auditor as to the total referred to in paragraph 1 of this schedule in respect of the preceding year of the lease term hereinbefore recited*

3 *The Lessors certificate as to the amount due to the Lessor shall be conclusive otherwise any dispute between the parties shall be determined in default of agreement by a single arbitrator to be appointed by the President for the time being of the Royal Institute of Chartered Surveyors*

4 *The reserve fund shall be held by the Lessor upon trust for the Lessees of the Flats in the premises and shall be kept in a separate account and any interest thereon shall be added to the reserve fund*

5 *The reserve fund shall be applied only towards the costs referred to in paragraph 1(a) (e) and (f) of this schedule*

Inspection

6. The Tribunal inspected the Building on the morning of the hearing on 15 March 2012. Also present was Mr Piper. The Building was a large, detached house with a rendered finish under a tiled pitched roof with dormers. A communal front door led through a tiled porch to an inner door leading to a hallway with entrance doors to Flats 1 and 2. Stairs led to a first floor landing, with doors to Flats 3 and 4 on the first floor and Flat 5 on the second floor. The hall, stairs and landing were carpeted and appeared to be in good condition

7. A gravel drive at the rear had enough room for parking for about 5 cars. Flats 1 and 2 had their own gardens surrounded by hedges

The Applicant/Landlord's statement of case 30 January 2012

8. The Applicant/Landlord stated that all maintenance work had been arranged and supervised by him personally and carried out by his own labour, except for work such as tree felling, where contractors had been employed. By this means it had been possible to keep maintenance down to a minimum cost. This was appreciated by most lessees who were happy to pay any balance due from maintenance when the accounts were rendered. The average maintenance charge for similar flats in the area to those at the Building amounted to an increase of over 100% of their costs. The lessees had therefore received a great benefit due to in-house labour being used in lieu of contractors

9. Unfortunately, the maintenance accounts had been delayed because of the Applicant/Landlord's business commitments being a sole trader in the furnished letting business and because of ill-health for a number of years. The only lessee to complain about the accounts being delayed had been the Respondent/Leaseholder

10. The Respondent/Leaseholder had proved to be an unreliable and irresponsible lessee, as shown by non-payment of buildings insurance and maintenance from November 2005 to date, failing to maintain a hedge to acceptable standards, and causing disturbance to all other lessees by allowing unruly dogs to live at Flat 2 and bark day and night

11. Following the issue of the County court summons by the Applicant/Landlord, and in view of a potential sale of Flat 2, the Respondent/Leaseholder undertook to pay the Applicant/Landlord direct from the proceeds of sale the sum of £2694.33 in accordance with the County Court summons, the amount of maintenance shown to be due by reference to the financial accounts covering all periods up to 30 November 2011. He also undertook to withdraw the Tribunal proceedings. Unfortunately the buyer withdrew because of another survey report. Neither the Respondent/Leaseholder nor the Applicant/Landlord had been aware of the Applicant/Landlord's requirements to issue certain notices to lessees regarding service and administration charges. The Respondent/Leaseholder had therefore previously been satisfied with invoices for ground rent, insurance, and service charges received from the Applicant/Landlord

12. The Applicant/Landlord referred to the decisions in Redrow Homes (Midlands) v Hothi [2011] UKUT 268 (LC) and Lennon v Ground Rents (Regisport) Ltd [2011] UKUT 330 (LC) in which the Upper Tribunal said that "the obligation for a landlord to deal with service charges within a reasonable time might be implied in a lease, but a landlord's slowness was not sufficient reason to disallow all charges"

The Respondent/Leaseholder's statement of case 26 March 2012

13. The Respondent/Leaseholder stated that he instructed agents to sell Flat 2 on 8 April 2011

14. On 18 April 2011 the Applicant/Landlord wrote to the Respondent/Leaseholder with a demand for outstanding building insurance and maintenance charges amounting to £2599.33 with no evidence apart from a photocopy of a ledger page (document 40)

15. On 17 May 2011 the Applicant/Landlord wrote two letters to the Respondent/Leaseholder, one stating that the County Court claim had been submitted (document 43), and the other detailing issues regarding the rear garden hedge, redecoration, the annual maintenance charge and the sale of Flat 2 (document 45)

16. At the end of May 2011 an undated letter from the Applicant/Landlord enclosed year end accounts for 2004, 2005, and 2006 demanding payment of £164, £194, and £197 respectively (document 45). The Respondent/Leaseholder had never previously received these demands. The costs were incurred more than 18 months before these demands

17. In relation to the claim for buildings insurance premiums for 2005 to 2006 and 2007 to 2008, no demand for payment had ever been received. Demands for payment of ground rent, building insurance and maintenance in subsequent years had never stated that there were any outstanding building insurance payments due. The first notification of any building insurance premiums being outstanding was when the Respondent/Leaseholder received the letter dated 18 April 2011. That was more than 18 months after the costs had been incurred in November 2005 and November 2007 respectively

18. In relation to the claim for maintenance payments, the Respondent/Leaseholder had paid maintenance accounts in full between 29 October 2001 and 31 December 2007. The Respondent/Leaseholder was concerned that no audited accounts had been provided for a number of years. He wrote to the Applicant/Landlord in July 2008 requesting the audited accounts for the last 3 years and sending a cheque to cover ground rent and building insurance. The cheque was cashed but with no response about the accounts. In January 2009 the Applicant/Landlord demanded ground rent, building insurance and maintenance charges. No mention was made of any outstanding maintenance charge. The Respondent/Leaseholder again wrote to the Applicant/Landlord requesting the audited accounts and sending a cheque to cover the ground rent and building insurance premium. The cheque was cashed but the request for accounts was ignored. On 20 December 2009 the Applicant/Landlord demanded the forthcoming ground rent, building insurance and maintenance charge. No mention was made of any outstanding maintenance charge. The Respondent/Leaseholder again wrote to the Applicant/Landlord requesting the audited accounts and sending a cheque to cover the ground rent and building insurance premium. The cheque was cashed, but again the request for accounts was ignored. On 10 December 2010 the Applicant/Landlord demanded the forthcoming ground rent and building insurance and maintenance charge. No mention was made of outstanding maintenance charges. The Respondent/Leaseholder wrote to the Applicant/Landlord requesting the audited accounts and sending a cheque to cover the ground rent and building insurance premium. The cheque was cashed, but again the request for accounts was ignored

19. No accounts had been received for the years 2007, 2008, or 2009. In all cases the costs were incurred more than 18 months before the demand dated 18 April 2011.

20. In relation to the sale of Flat 2 the Applicant/Landlord demanded a number of undertakings, including payment of the outstanding claim, but the Respondent/Leaseholder did not agree to do so

21. The Respondent/Leaseholder also responded to the Applicant/Landlord's assertions about the garden hedge

22. The Respondent/Leaseholder requested the Tribunal to grant an order under section 20C of the 1985 Act, namely that costs in these proceedings should not be considered relevant costs to be taken into account in determining the amount of any service charge payable

The hearing

23. Mr Ram Moorthy said that he was the Respondent/Leaseholder's brother

24. The Tribunal indicated that the Tribunal's jurisdiction in this case was limited to the matters referred to it by the County Court, and also by Parliament. Accordingly the Tribunal did not have jurisdiction in this case to make determinations about the questions of hedges and pets mentioned in written submissions, nor about the question of ground rent referred to in the County Court proceedings. The Tribunal did, however, note in passing that the ground rent appeared to have been claimed on at least two occasions at the rate of £250 a year, whereas the ground rent for the first 25 years under the lease was stated to be £150 a year. Mr Piper said that that had been a mistake, and that the proper figure was indeed £150 a year

25. The evidence and submissions at the hearing in relation to each item in issue before the Tribunal, and the Tribunal's findings in each case, are as follows

26. **Buildings insurance November 2005 to November 2006 £277.13**

27. Mr Piper said that there was no copy of any demand for this sum in the papers before the Tribunal. However, every year Mr Piper sent to each lessee, including Mr Moorthy, a separate invoice for the insurance contribution. The insurance premium was payable in the third week of November in each year and he sent the invoices at the beginning of November. This later changed to December. He had a pad of invoices. A white copy went to each lessee, and he retained a pink copy. Every other lessee had paid the insurance premium for that year except Mr Moorthy. Although the lease referred in clause 1 to payment of the insurance contributions being made on the next quarter day, Mr Piper had to pay the whole of the insurance premium immediately and accordingly expected the lessees to pay their contributions immediately as well to avoid him being out of pocket. Indeed, Mr Moorthy had paid the insurance premiums for the years immediately on demand. Mr Piper further asserted that Mr Moorthy knew that the insurance was owing in November and if, as now claimed, he had not received a demand, he should have asked Mr Piper about it rather than simply not paying

28. Mr Moorthy asked how Mr Piper's statement that insurance premiums were always invoiced separately in November each year was consistent with the following documents :

a. the letter from Mr Piper dated 16 October 2003 (document 5) acknowledging Mr Moorthy's cheque for the buildings insurance for 2002 to 2003 and stating that the buildings insurance was always paid by Mr Piper in advance, but that he had omitted to collect the relevant premium from lessees at that time
b. the undated demand for ground rent due on 1 January 2008 maintenance due on 1 January 2008 and buildings insurance (document 10) received by Mr Moorthy only at the end of June 2008, according to his letter dated 6 July 2008 (document 11)
c. the demand dated 26 December 2008 for ground rent due 1 January 2009, maintenance due 1 January 2009, and buildings insurance for November 2008 to November 2009 (document 12)
d. the demand dated 20 December 2009 for buildings insurance due 21 December 2009, and ground rents and provisional maintenance due 1 January 2010 (document 30)
e. the demand dated 10 December 2010 for buildings insurance for the year 21 December 2010 to 20 December 2011, and ground rent and on account provisional maintenance for 2011 (document 33)

29. Mr Piper said that his oversight in not sending the invoices for the insurance referred to in his letter dated 16 October 2003 was because of pressure of work and illness. Although the four demands referred to did invoice insurance at the same time as invoicing ground rent and maintenance charges, they were only four invoices, whereas in the majority of previous years, including 2005, the insurance had been invoiced separately

30. Mr Moorthy said that the first demand for the 2005 insurance premium had been in the ledger sheet sent by Mr Piper on 18 April 2011 (document 40). Mr Moorthy had received no previous demand and no previous correspondence suggesting that any premiums were outstanding. If Mr Piper had really sent a demand in November 2005 then he would have pressed for payment, as he did following the demand on 10 December 2010 (document 35)

31. *The Tribunal's findings*

32. The Tribunal finds that :
    a. there is no written evidence before the Tribunal of any demand having been sent in relation to this item until the ledger account enclosed with Mr Piper's letter dated 18 April 2011 (document 40)
    b. Mr Piper's oral evidence that he did indeed send an invoice in this respect in November 2005 in accordance with his normal practice, is inconsistent with :
        - the delay in sending a previous insurance demand referred to in the letter from Mr Piper dated 16 October 2003 (document 5)
        - the fact that the demands for January 2008 (document 10), January 2009 (document 12), January 2010 (document 30) and January 2011 (document 33) were not only for insurance contributions but also for ground rent and maintenance
        - the fact, as the Tribunal finds, that the demand for January 2008 (document 10) was not sent to Mr Moorthy until June 2008

- the fact, as the Tribunal finds, that none of the subsequent demands referred to any arrears of insurance contributions
- the lack of any other evidence of Mr Piper pressing for payment of this item, whereas there is evidence of his doing so following the demand on 10 December 2010 (document 35)

c. Mr Moorthy's written and oral evidence that the first demand which he received for this item was the ledger sheet sent by Mr Piper on 18 April 2011 (document 40) is persuasive
d. having considered all the evidence before it, the Tribunal accepts Mr Moorthy's evidence in that respect
e. the demand dated 18 April 2011 was more than 18 months after the cost of this item had been incurred by Mr Piper
f. this item is a relevant cost for the purposes of section 20B of the 1985 Act by virtue of section 18 of the 1985 Act
g. this item is accordingly not payable

33. **Buildings insurance November 2007 to November 2008 £367.20**

34. Both parties agreed that the same issues applied as for the buildings insurance for November 2005

35. *The Tribunal's findings*

36. The Tribunal makes the same findings, for the same reasons, as the Tribunal has made in relation to the buildings insurance for November 2005, and finds that this item is not payable

37. **Ground rent and maintenance 1 January 2008 £300**

38. Mr Piper said that this had been demanded by the undated demand for ground rent due on 1 January 2008 maintenance due on 1 January 2008 and buildings insurance (document 10). He regretted that the figures for ground rent (£250) and maintenance on account (£300) should have been £150 and £400 respectively, since the ground rent was actually £150 a year. He was not sure how the error had occurred, but the on-account maintenance charges had risen from £150 originally, to £300, and then to £400. He had not considered the figure in detail each year, but had maintained the same figure each year in order to keep costs down. However, in answer to a question from the Tribunal, he accepted that for the purposes of paragraph 2 of the seventh schedule to the lease, Mr Moorthy could not have been expected to pay more than the £300 figure mentioned in the demand

39. In answer to a question from Mr Moorthy, Mr Piper accepted that he had not sent service charge accounts for the previous three years in response to the request in that respect in Mr Moorthy's letter dated 6 July 2008 (document 11)

40. In answer to a question from the Tribunal, Mr Piper very fairly and properly accepted that the demand at document 10 did not contain the information prescribed by the Service Charges (Summary of Rights and Obligations, and Transitional Provision) (England) Regulations 2007 ("the 2007 Regulations") as required by section 21B of the 1985 Act (incorporated by section 153 of the 2002 Act with effect from 1 October 2007. However, neither Mr Piper nor Mr Moorthy had been

aware of these requirements until relatively recently, and every other lessee in the Building had made payments and were happy with the demands in the form in which they had actually been sent

41. Mr Moorthy said that he had been requesting audited service charge accounts ever since his letter dated 6 July 2008 (document 11), because he had previously been making maintenance payments on account without any means of checking actual expenditure. He was entitled to withhold payment by virtue of the failure to comply with section 21B of the 1985 Act, and accordingly wished to do so

42. *The Tribunal's findings*

43. The Tribunal finds that :
    a. the demand, being a demand served after 1 October 2007, did not contain the information prescribed by the 2007 Regulations as required by section 21B of the 1985 Act
    b. Mr Moorthy is therefore entitled to withhold payment of this item, and wishes to do so
    c. this item is accordingly not payable
    d. it is not therefore necessary for the Tribunal to decide :
        - whether the sum demanded was or was not reasonable
        - whether the sum demanded constituted an estimate of the likely maintenance charge for the year in question for the purposes of paragraph 2 of the seventh schedule to the lease

44. **Ground rent and maintenance 1 January 2009 £300**

45. Mr Piper said that this had been demanded by the demand dated 26 December 2008 for ground rent due 1 January 2009, maintenance due 1 January 2009, and buildings insurance for November 2008 to November 2009 (document 12). Again the figure of £250 the ground rent and £300 the maintenance were incorrect, and should have been £150 and £400 respectively

46. The Tribunal asked Mr Piper about the discrepancy between the figure of £588.36 mentioned in the ledger sheet (document 40) and the reference to a payment of £599.36 in Mr Moorthy's letter dated 10 January 2009 (document 13). However, Mr Moorthy very fairly and properly stated that the figure in his letter was probably an error, and that the actual payment had indeed probably been £588.36

47. Otherwise the parties agreed that the issues were the same as those in relation to the demand for ground rent and maintenance for the previous year

48. *The Tribunal's findings*

49. The Tribunal makes the same findings, and for the same reasons, as the Tribunal has made in relation to the demand the ground rent maintenance for the previous year, and finds that this item is not payable

50. **Ground rent and maintenance 1 January 2010 £400**

51. Mr Piper said that this had been demanded by the demand dated 20 December 2009 for buildings insurance due 21 December 2009, and ground rents and provisional maintenance due 1 January 2010 (document 30)

52. In answer to a question from the Tribunal, Mr Piper said that the figure of £550 the ground rent and provisional maintenance could constitute an estimate of maintenance charges for the purposes of paragraph 2 of the seventh schedule to the lease, in that the lease provided for a ground rent of £150 so that it was implicit that £400 of the £550 demanded was for maintenance

53. Otherwise the parties agreed that the issues were the same as those in relation to the demand for ground rent and maintenance for the previous year

54. *The Tribunal's findings*

55. The Tribunal makes the same findings, and for the same reasons, as the Tribunal has made in relation to the demand the ground rent maintenance for the previous year, and finds that this item is not payable

56. **Ground rent and maintenance 1 January 2011 £400**

57. Mr Piper said that this had been demanded by the demand dated 10 December 2010 for buildings insurance for the year 21 December 2010 to 20 December 2011, and ground rent and on account provisional maintenance for 2011 (document 33)

58. Otherwise the parties agreed that the issues were the same as those in relation to the demand for ground rent and maintenance for the previous year

59. *The Tribunal's findings*

60. The Tribunal makes the same findings, and for the same reasons, as the Tribunal has made in relation to the demand the ground rent maintenance for the previous year, and finds that this item is not payable

61. **Year ending 2004 maintenance account balance of £164**

62. Mr Piper said that the demand for this sum was the undated invoice at document 45. He could not recall when it had been sent to Mr Moorthy, but very fairly said that he would accept Mr Moorthy's word that Mr Moorthy had not received it until the end of May 2011 and that May 2011 was more than 18 months after both 2004 and 30 January 2007 (the date of the certificate on the accounts by the accountants: document 45). However, Mr Piper said that section 20B of the 1985 Act should not apply because of the two Upper Tribunal cases which he had quoted in his written submissions, although, in answer to a question from the Tribunal, Mr Piper conceded that he could not find any reference to section 20B of the 1985 Act in the cases

63. In answer to a question from Mr Moorthy, Mr Piper also very fairly and properly conceded that the accounts for the years ending 2004, 2005, and 2006, sent to Mr Moorthy with the undated invoice at document 45, had not been sent to Mr Moorthy in 2007 when the accountants had signed the accounts

64. *The Tribunal's findings*

65. The Tribunal finds that :

a. Mr Moorthy did not receive a demand for this sum until the ledger sheet sent by Mr Piper on 18 April 2011 (document 40), and did not receive the accounts for the year in question until the undated invoice at document 45, in respect of which the Tribunal accepts Mr Moorthy's evidence that the document did not arrive until the end of May 2011
b. even the earlier of those two dates, namely 18 April 2011, was more than 18 months after the year of the accounts in question and more than 18 months after the date of the accounts and signature on those accounts and was accordingly more than 18 months after the date when any of the costs shown in the accounts were incurred by Mr Piper
c. the two Upper Tribunal cases referred to in Mr Piper's submissions were dealing with the question of the reasonableness of the time taken by the landlords in those cases to provide year-end accounts, and not with the question whether section 20B of the 1985 Act operated as a bar to liability to payment by the lessees in those cases
d. by virtue of section 20B of the 1985 Act this item is therefore not payable

66. **Year ending 2005 maintenance account balance of £194**

67. The parties agreed that the issues were the same as those in relation to the demand for the year ending 2004 maintenance account balance

68. *The Tribunal's findings*

69. The Tribunal makes the same findings, and the same reasons, as the Tribunal has made in relation to the demand for the year ending 2004 maintenance account balance, and finds that this item is not payable

70. **Year ending 2006 maintenance account balance of £197**

71. The parties agreed that the issues were the same as those in relation to the demand for the year ending 2004 maintenance account balance

72. *The Tribunal's findings*

73. The Tribunal makes the same findings, and the same reasons, as the Tribunal has made in relation to the demand for the year ending 2004 maintenance account balance, and finds that this item is not payable

74. **Section 20C of the 1985 Act**

75. Mr Piper said that he did wish to include his costs of these proceedings in a future service charge. He had made very minimal charges because all the maintenance work had been done in-house at about half the cost to the lessees compared with charges for maintenance in other blocks in the locality

76. Mr Moorthy said that it was not appropriate for Mr Piper's costs to be included in future service charge. Mr Moorthy had at all times demonstrated in correspondence his willingness to pay reasonable maintenance charges on receipt of maintenance accounts but accounts for 2004, 2005, 2006 had only just been forthcoming, and even now no subsequent accounts had been produced

77. *The Tribunal's findings*

78. The Tribunal finds that:
    a. the Tribunal has determined the issues in this case in favour of the Respondent/Leaseholder
    b. it is accordingly appropriate for the Tribunal to make an order under section 20C
    c. the Tribunal accordingly orders that any costs incurred by the Applicant/Landlord in relation to these proceedings should not be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Respondent/Leaseholder

Transfer back to the County Court

79. The Tribunal now transfers the matter back to the County Court

Dated 15 March 2012

Signed

P R Boardman

Chairman

A Member of the Tribunal
appointed by the Lord Chancellor