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HM COURTS & TRIBUNALS SERVICE

LEASEHOLD VALUATION TRIBUNAL

In the matter of a Claim transferred from the County Court (service charges) and an Application under Sections 27A and 20C Landlord & Tenant Act 1985 (service charges and limitation of costs)

Case Nos. CHI/21UC/LIS/2011/0017
CHI/21/UC/LIS/2011/0035

Property: Flat 9
St. Brelades
Trinity Place
Eastbourne
East Sussex
BN21 3BT

Between: City & Country Properties Limited
("the Landlord")

And

Mr. S. Lake
("the Lessee")

Dates of Hearing: 22nd September 2011
25th October 2011
16th November 2011

**Dates of consideration
by Tribunal:** 6th December 2011
7th March 2012

**Members of the
Tribunal:** Mr. R. Norman
Mr. J.N. Cleverton FRICS
Mr. R. Athow FRICS MIRPM

**Date Decision
Issued:** 7th March 2012

FLAT 9, ST. BRELADES, TRINITY PLACE, EASTBOURNE, EAST SUSSEX
BN21 3BT

Decision

1. The following determinations were made by the Tribunal:
 - (a) The sum of £3,025.59 is required to be deducted from the service charges claimed by City & Country Properties Limited (“the Landlord”) from Mr. S. Lake (“the Lessee”).
 - (b) An order is made under Section 20C of the Landlord and Tenant Act 1985 (“the Act”) that all or any of the costs incurred or to be incurred by the Landlord in connection with these proceedings are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Lessee.

Background

2. The Landlord is the freeholder of the building known as St. Brelades, Trinity Place, Eastbourne, East Sussex BN21 3BT (“the Building”). The Lessee is the lessee of Flat 9 (“the Flat”) in the Building.
3. The Landlord commenced proceedings in the County Court (Claim No. OCI01529) against the Lessee claiming ground rent, service charges and statutory interest.
4. By an Order dated 9th March 2011 those proceedings were transferred to the Tribunal.
5. The Lessee made applications for a determination of liability to pay and reasonableness of service charges under Section 27A of the Act and for an order under Section 20C of the Act for limitation of costs.
6. Directions were given that both matters be dealt with by the same Tribunal at the same time.
7. Other directions were also given and the hearing of both matters was set to take place on 22nd September 2011.
8. On 22nd September 2011 there was an inspection and hearing. The Lessee and his partner and Mr. Deal of counsel representing the Landlord attended both the inspection and the hearing.
9. At the hearing Mr. Deal applied for an adjournment and supplied to the Lessee and to the Tribunal a bundle of documents which had been prepared for the hearing. The Tribunal noted that the bundles of documents were not completely identical and when they were referred to later, care had to be taken to ensure that the Lessee, Counsel representing the Landlord and the Tribunal members were all dealing with the same document. The Landlord had not complied with the directions and the Tribunal found it regrettable that there should be an application for an adjournment so late in the day but considered all the circumstances and came to the conclusion that justice could not be

done without an adjournment. The hearing was adjourned to 25th October 2011 and further directions were issued.

10. On 25th October 2011 there was an inspection and hearing. The Lessee and Mr. Lees of Counsel representing the Landlord attended both the inspection and the hearing.

11. At the hearing progress was made but there was insufficient time to deal with all the matters concerned and it became clear that it would be of assistance to the Tribunal if the Landlord produced, in respect of the major works which fell to be paid for during the period under consideration, copies of the specifications and the detailed final bills from the contractors as such documents had not been included in the documents supplied. Accordingly, further directions, which were outlined at the hearing, were issued and the hearing was adjourned to 16th November 2011.

12. On 16th November 2011 the hearing was attended by the Lessee and his partner and by Mr. Lees

13. The Lessee asked for an adjournment and made the point that earlier in the proceedings the Landlord had not supplied papers on time. The Lessee had not seen the original specification and invoices and at this stage he had received the documentation as to the major works with only ten days to consider it. He considered he needed a builder to go through the documentation.

14. Mr. Lees opposed the application and submitted that it was in the interests of both parties to proceed. He gave the following reasons for this:

- (a) Costs. He accepted that the Lessee had written complaining about the Landlord being allowed to produce the documents but he had not asked for an adjournment in that letter as he should have done if that was what he wanted. As a result the costs of the day had been incurred.
- (b) If the Lessee were given the opportunity to produce a builder to give expert evidence then the Landlord would be entitled to obtain expert evidence. This would cause delay and increase the costs for both parties.
- (c) If expert evidence were to be given then this would mean starting the whole procedure again; not just in relation to the major works but in relation to everything.
- (d) The Tribunal is an expert tribunal and can look at the documents produced and take account of the two site visits. Even if the Lessee were to challenge everything the Tribunal could still deal with it.
- (e) As to the availability of the specification, reference had been made to it being fixed to the communal entrance. The Lessee had said that he went to a meeting to discuss works. It was unlikely that that was anything other than the major works.

15. The Lessee accepted he was aware of the major works but Freshwaters, the managing agents were offering a service and it was not up to standard so they should not be paid for it. Not one thing they did was a good job and for the money they were charging there should have been no question of lack of quality.

16. Mr. Lees stated that he would expect that the specification was only for the assistance of the Tribunal. The Lessee was seeking not just an adjournment but expert and oral evidence. These should have been available from the beginning of the proceedings and both parties were to blame for the absence of expert and oral evidence. He accepted that an expert might see something which the Lessee had not seen or pointed out to the Tribunal but the Tribunal could deal with the case without expert evidence as it is an expert tribunal

17. The Lessee was concerned that the Tribunal had stated that the Landlord would not be able to provide any more paperwork but then was given time to produce more paperwork.

18. The Tribunal explained that the additional documentation had been provided at the request of the Tribunal to help the Tribunal deal with the case. The specification and final invoices were needed to help the Tribunal quantify the work done.

19. Mr. Lees accepted that there was a limited amount that either he or the Lessee could say about the documentation produced. He submitted that the only evidence was what the Tribunal had seen at inspections and the photographs produced. He further submitted that there was no evidence of work being unreasonable or reasonable.

20. The Tribunal considered the application and came to the conclusion that the hearing should continue. The further paperwork supplied was for the assistance of the Tribunal in coming to a decision on the matters concerned. To adjourn further would not be in the interests of either of the parties.

21. On 16th November the hearing was concluded.

22. The members of the Tribunal reconvened on 6th December 2011 and 7th March 2012 to further consider the matters.

Inspections

23. The Tribunal carried out inspections of the exterior and internal common parts of the Building and the interior of the Flat.

24. The Building is a purpose built block of flats on 5 floors over garages. The majority of the properties in the immediate area are either flats or hotels.

25. The exterior of the walls of the Building have a render finish which it was said had been painted in 2009. A number of dark patches, apparently mould, could be seen in the render and part way up the Building there was a change to the finish of the render. Vegetation was growing in the gutter on the South elevation. Some of the tiles in front of the entrance were cracked.

26. In the hall there were cobwebs and there were stains on the stairs and nosing on some of the stairs was damaged. There was a plastic entry phone. On the top landing there was a piece of polystyrene held in place by wire, apparently to cover a hole.

27. Inside the Flat it could be seen that the window frames were of aluminium construction in a wood frame. Some windows opened fully but others opened to only a limited extent. In bedroom 1 the windows would not open fully and the internal plaster of the walls and ledges around the windows had blown. Outside the paint was peeling from the cill. In bedroom 2 in a window frame there was a hole and what appeared to be dry rot. There was mould on the outside cill and there were cracks in the internal plaster. In the sitting room the internal plaster around the window had blown and there were signs of recent water ingress in a corner. In the kitchen there was a gap at the top right hand corner of the window when the window was closed. By looking out of one of the windows in the Flat it could be seen that the paint was peeling from the cills of windows of other flats.

28. The Lessee pointed out the following:

- (a) Door handles on a door to the fire escape and a broken door handle in the basement. The Lessee pointed out that they were both of a very low quality fabrication.
- (b) A ramp in the basement which appeared to have been constructed of old wood.
- (c) Gullies in front of the garages.
- (d) Worn yellow paint on steps at the front of the Building.
- (e) The absence of yellow paint on one step.
- (f) A manhole cover.

29. Mr. Lees pointed out the presence of signage and fire extinguishers.

Hearings

30. On 25th October and 16th November 2011 the Tribunal heard submissions from Mr. Lees on behalf of the Landlord and from the Lessee.

31. Each of the charges made within the period the subject of these proceedings was considered and the Lessee stated whether or not he challenged the sum charged. Unless otherwise stated references to Tabs are references to Tabs in the bundle of documents provided on behalf of the Landlord.

32. Submissions by Mr. Lees on behalf of the Landlord:

- (a) This is an easy legal case as there is so little evidence. Were this not an expert tribunal it would be impossible to proceed as there is no expert evidence and no oral evidence. The Tribunal has to disregard everything the Lessee said if it was evidence as there was no permission for oral evidence to be given by either party.
- (b) The present state of the Building is not in issue. It may be that the Lessee could take action for breach of covenant either as a counterclaim or as a new claim. The state of the

Building is not in issue save as it relates to work done. The Lessee's suffering is irrelevant so far as it does not relate to the work done.

(c) The Lessee stated that he was not paying service charges on principal. However, this was not a crusade on behalf of everyone in the Building. No other lessees had attended the hearings. The Lessee was doing this for himself in an effort not to pay service charges.

(d) The lease is accepted by both parties and the Lessee is obliged to pay service charges of 5.80% of the total cost of services, subject to unreasonableness.

(e) If something is done to another flat the cost may still be part of service charges.

(f) When the Lessee has not challenged a charge he admits it and owes his portion of that charge so there is no need to look at it.

(g) The consultation procedure under Section 20 of the Act was not challenged by the Lessee so is not in issue.

(h) Some charges, for example those in relation to the lift in Tab 5, were not challenged in the end.

(i) The cost of a cleaner was challenged.

(j) There is a great deal not in issue. There are two applications. The first is a reference from the County Court to say which service charges can be collected from the Lessee. In respect of the amounts he accepts, judgement should be entered for him to pay. The Landlord invites the Tribunal to assess what, if anything, is challenged and then what is correctly challenged. Anything not deducted by that process is reasonably charged, was reasonably demanded and owing to the Landlord. This will then go back to the County Court and the claim for arrears will continue subject to any deduction for unreasonableness.

(k) The Landlord's position is that money was expended by the Landlord and it is submitted that the charges are reasonable. There is no evidence of reasonableness and no evidence of unreasonableness.

(l) The Tribunal has the documents produced, the site visits, the photographs produced and little more. While some matters fall within expert knowledge, for example major works, nonetheless the Lessee accepts that the Landlord paid for the work done and the burden of proof falls both ways. Where there is no evidence either way, if there are no photographs and the Lessee has not pointed out anything to the Tribunal then in the interests of justice, given these sums have been expended for the benefit of the Building the decision should fall on the landlord's side.

(m) Many of the points raised by the Lessee relate to travel time to the Building by contractors, but little can be garnered from looking at the billing address of a company, particularly a large company. The services of a reliable contractor at a reasonable cost should be obtained and it was reasonable for there to be a degree of travelling for a reasonable firm.

(n) Accountancy fees are not in issue except those relating to major works.

(o) The works were reasonable and that would be Mr. Lees' submission in respect of all charges challenged unless he had something to add.

33. Mr. Lees made no submissions as to the application for an order under Section 20C of the Act.

34. The Lessee made the following submissions:

- (a) That the work had not been carried out to a reasonable standard and/or that the charges made were excessive.
- (b) That the works the Tribunal had seen had a big question mark against them. The work was poor quality and for the money charged (extortionate maintenance charges of £250 per month) there should not be question marks.
- (c) That in some cases the charges were excessive because the contractors carrying out the work came from some distance away and had to travel long distances to the Building. There was no need to employ people from miles away. Costs could be cut dramatically if local workmen were hired.
- (d) The problems in the Flat were caused by the Landlord's negligence. Five years ago the Lessee had made the Landlord aware of the problems. A Mr. Weston, on behalf of the Landlord, came and took photographs and said he would come back but did not. Eventually after the Lessee sent a registered letter a Mr. Conti on behalf of the Landlord came to the Flat and said the problems would be rectified but they were not. In winter the Lessee had to leave the Flat and live with his girlfriend because the walls were so damp and he has asthma. He had received a quote for £5,000 from a builder to put right the inside of the Flat but before that the outside needed to be dealt with. He asked why the problems could not have been rectified when the scaffolding was in place. He was left with the condition of the Flat and was trapped. He could not rent the Flat or sell it.

35. The Tribunal did not agree with Mr. Lees' submission that this was an easy case. The Tribunal was not assisted by the following:

- (a) The absence of statements from witnesses in support of either the Landlord's case or the Lessee's case.
- (b) The bundles of documents produced on behalf of the Landlord were not produced in accordance with the directions issued before the 22nd September 2011.
- (c) The bundles produced at the hearing on 22nd September 2011 were not identical.

36. However, in order to attempt to direct attention to the appropriate charges references are made to the Tab Numbers in the bundle of documents supplied on behalf of the Landlord.

37. The Tribunal accepted the submission from Mr. Lees that as both parties had failed to produce witnesses, the Tribunal, being an expert tribunal, had to rely on its own knowledge and expertise assisted by the documents produced, the site visits, the photographs produced and the submissions made in order to make a determination.

38. The following charges were drawn to the Tribunal's attention and submissions were made in respect of them. The Tribunal later considered such evidence as there was before the Tribunal and the submissions made and using its expertise and knowledge, made determinations as to whether the charges were reasonably incurred. The Tribunal's decision appears after each item challenged.

- (a) Tab 4 - Cleaning each year 2007, 2008, 2009 2010. Although when the Tribunal inspected the Building there was at that time evidence of a poor standard of cleaning

there was before the Tribunal no evidence showing a poor standard of cleaning for those earlier years, which are the years in question. The Tribunal found those charges to be reasonable.

(b) Tab 6 – Boilers.

2007:

B.T.U. (Maintenance) Ltd. £492.62 minus the credit of £34.37 the Tribunal found was reasonable.

Contract Energy Management Ltd. £376 - minimum charge 2 hours £120 and 4 hours travelling to investigate time clock issues. The Tribunal found that the sum charged for such work and the travelling time involved was unreasonably incurred. A charge of £100 + VAT @17.5% = £117.50 would have been reasonably incurred. Consequently there is a reduction of £258.50.

2008:

B.T.U. (Maintenance) Ltd. £240.59. ISS Facility Services Ltd carried out boiler maintenance and Reid Holden (Building Services) Ltd carried out repairs. However B.T.U. (Maintenance) Ltd. apparently from outside the area attended to turn off the heating and charged £240.59. The Tribunal found that to be an excessive charge for the work done. A charge of £100 + VAT @17.5% = £117.50 would have been reasonably incurred. Consequently there is a reduction of £123.09.

2009:

ISS Facility Services Ltd. £988.18. In the absence of evidence to contradict that this is a specialist company, and bearing in mind that this company services the boiler, the Tribunal found the charge reasonable.

ISS Facility Services Ltd. £788.31. In the absence of evidence to contradict that this is a specialist company, and bearing in mind that this company services the boiler, the Tribunal found the charge reasonable.

Reef Water Solutions. £609.50. In the absence of evidence to contradict that this is a specialist company, the Tribunal found the charge reasonable.

2010:

Excelsior 4 Ltd. £972.08. Without a job sheet there is no information about the work which was done other than the replacement of a Sangamo clock and batteries costing £122.39. The Tribunal found that the charge of £122.39 for materials was reasonable but that in the absence of evidence of other work done, one hour should be sufficient time to

carry out the work. The hourly charge is £52 making a total of £174.39 + VAT @ 15% = £200.54. Consequently there is a reduction of £771.54

Excelsior 4 Ltd. £502.44 This charge is for work carried out only three days later when there was a report of no hot water. In the absence of a job sheet or any description of the work done or justification for charging for 5 hours work and incurring a charge for 2 hours travel, the Tribunal found that the only charge which was reasonably incurred was the call out charge of £72.90 + £130 (half the on-site time) for work done making a total of £202.90 + VAT @ 15% = £233.33. Consequently there is a reduction of £269.11.

ISS Facility Services Ltd. £662.34. In the absence of evidence to contradict that this is a specialist company, and bearing in mind that this company services the boiler, the Tribunal found the charge reasonable.

ISS Facility Services Ltd. £149.04. In the absence of evidence to contradict that this is a specialist company, and bearing in mind that this company services the boiler, the Tribunal found the charge reasonable.

Ark Workplace Risk Ltd. £201.25 and £425.74. In the absence of invoices for these amounts, the Tribunal could not find that these charges were reasonable. Consequently there is a reduction of £626.99.

(c) Tab 7 - Entry phone and Fire security

2010:

Internal Communication Systems. £463.66. The cause of the damage which was repaired is not stated but the Tribunal found the charge reasonable.

(d) Tab 9 - Repairs and Maintenance

2008:

Metalwork Maintenance Services Ltd. £2,256.71. The details are in the accounts and the Tribunal found the charge reasonable.

Excelsior 4 Ltd. £564. On the basis of the information given in the invoice the Tribunal found the charge reasonable.

H.A. Pocock Ltd. £253.62. On the details of work given in the invoice, the Tribunal accepted that the charge was reasonable.

ISS Facility Services Ltd. £234.69. The Tribunal found that a local contractor could have been found to investigate a leak near a boiler. The call out charge of £72.90 and one hour's work on site @ £31.71 making a total of £104.61 + VAT @ 17.5% = £122.92 was reasonable but 3 hours' travel was not. Consequently there is a reduction of £111.77

2009.

Wyatt Wright Builders & Decorators Limited. £1,451.60. In the absence of a sufficient explanation for the hire of a boom lift and tower, the Tribunal could not find that the charge was reasonably incurred. Consequently there is a reduction of £1,451.60

Hydrotech Services Limited. £1,159.73. In the absence of the report referred to in the invoice or any detail of the work, the Tribunal could not find that the charge was reasonably incurred. Consequently there is a reduction of £1,159.73.

H.A. Pocock Limited. £934.03. In the absence of the estimate in respect of the work to the front boundary wall, the Tribunal could not find that that element of the charge was reasonable. The description of the work to the front entrance path did not justify a charge for a craftsman for 9 hours and a labourer for 9 hours. The Tribunal found that 50% of the charge: £467.01 including VAT was reasonably incurred. Consequently there is a reduction of £467.01.

Wyatt Wright Builders & Decorators Limited. £388.93. The signs could have been sent direct to a local builder rather than to Freshwaters, from where they had then to be collected and driven to the site. The Tribunal found that the charge was excessive and that a charge of £100 + VAT @ 17.5% making a total of £117.50 would be reasonable. Consequently there is a reduction of £271.43.

Seton. £319.79 with no information, £31.55 for 1 sign and £167.66 for 7 signs including freight. In the absence of further detail, the Tribunal could not find the charges were reasonably incurred. Consequently there is a reduction of £519.00

Wyatt Wright Builders & Decorators Limited. £811.93. From the limited information supplied, a charge of £350 including VAT would have been reasonably incurred if the work had been carried out by a local contractor rather than one apparently travelling from Surrey. This takes account of the poor quality of the door handles fitted, the cost of 5 locks and 1 sign and a day's labour. Consequently there is a reduction of £461.93

Excelsior 4 Limited. £414.00. From the limited information supplied the Tribunal was not satisfied that this charge was reasonably incurred. There was no need to have a contractor travel from London to fix safety film, which should have been fixed when the doors were installed. Also the quote referred to was not produced. Consequently there is a reduction of £414.00.

S & J Electrics. £401.93. The contractor travelling from Welling was challenged but the Tribunal was satisfied that the charge was reasonably incurred.

Blackthorne Property Services Ltd. £373.58. The contractor travelling from London was challenged but the Tribunal was satisfied that the charge was reasonably incurred.

Chequers Contract Services Ltd. £346.63. A copy of the quote was not supplied but would have been unlikely to provide any further useful information. The Tribunal was satisfied that the charge was reasonably incurred.

Excelsior 4 Limited. £334.41. The Tribunal was satisfied that the charge was reasonably incurred.

H.A. Pocock Limited. £321.77. The Tribunal was satisfied that the charge was reasonably incurred.

Drain Control. £305.50 This was challenged on the basis that the contractor had to travel from Bexley Heath. However, the Tribunal was satisfied that the charge was reasonably incurred.

H.A. Pocock Limited. £282.51. On the evidence supplied, this was work again to the tiles. The charge was excessive. The work should have done properly the first time and the Tribunal was not satisfied that this charge was reasonably incurred. Consequently there is a reduction of £282.51.

H.A. Pocock Limited. £223.59. A charge has been made for carrying out alteration works to the ramp in the basement corridor (craftsman 5 ½ hours plus materials and transport). The Tribunal saw the ramp and found poor quality materials and workmanship. The Tribunal found that the charge was excessive for the work and the quality of it and that a local builder could have done the work for a charge of £100 including VAT. Consequently there is a reduction of £123.59.

H.A. Pocock Limited. £213.44. This charge was for the application of hardwearing yellow paint and it was clear at the inspection that the paint had worn. However, the Tribunal found that in two and a half years the paint could easily have worn and that the charge was reasonably incurred.

J. Francis & Sons. £164.50. This was challenged on the basis that the contractor had travelled from London to carry out the work. However, the Tribunal found that the charge was reasonably incurred.

Reef Water Solutions. £317.25. This was challenged on the basis that the charge was for re-sampling and shortly after the bill for quarterly sampling in June 2008. However, on the evidence produced the Tribunal found that the charge was reasonably incurred.

H.A. Pocock Limited. £161.55. The Lessee did not know where the guttering was on the garages but accepted that if there was guttering he would not challenge the charge. The Lessee had seen the invoice referring to garage guttering but did not point out to the Tribunal at the inspections the lack of guttering. On the evidence supplied the Tribunal found that the charge was reasonably incurred

Excelsior 4 Limited. £122.94. The Tribunal found that to employ a contractor, who apparently had to travel from London, to move one fire extinguisher was unreasonable. This work could have been carried out when a contractor was attending to carry out other work, the charge was excessive and was not reasonably incurred. Consequently there is a reduction of £122.94

H.A. Pocock Limited. £111.37. There was no evidence of what works had been carried out to a bin room door which would have taken a craftsman 3 hours to complete. On the limited information provided the Tribunal found that the charge was not reasonably incurred. Consequently there is a reduction of £111.37

2010:

ISS Facility Services Limited. £460.81. This was challenged on the basis that it was unreasonable to employ plumbers from Croydon to travel to the Building to carry out work where the materials cost only £30.80. There was no challenge to the cost of materials but there was a challenge to the charge for 10 hours @ £31.71 and 1 hour @ £52.80. Mr. Lees pointed out that in respect of this invoice and other similar invoices it was not stated whether it was 10 hours work for one man or 5 hours work for two men. However he stated he would leave this to the expert tribunal but asked the Tribunal to bear this in mind. The Tribunal considered that the time involved could well depend on how much of the system had to be drained down. The Tribunal found that the charge was reasonably incurred.

ISS Facility Services Limited. £662.34. This was challenged on the basis that plumbers from Croydon had been employed to travel to the Building to carry out this work. However, on the evidence provided the Tribunal found that the charge was reasonably incurred.

H.A. Pocock Limited. £855.40. The invoice refers to an estimate but no copy of the estimate was produced. There was a lack of evidence as to the works carried out and the Tribunal was not satisfied that the charge was reasonably incurred. Consequently there is a reduction of £855.40.

H.A. Pocock Limited. £160.11. The Tribunal found that this charge was reasonably incurred.

H.A. Pocock Limited. £215.57. This was challenged. Mr. Lees asked whether the gulley referred to in the invoice was at the front or the back of the Building. He accepted that he was asking for evidence when he had submitted that evidence could not be given but thought it would be useful to know. The Lessee was not sure. Mr. Lees suggested that the photographs would help the Tribunal. The Tribunal found that this charge was reasonably incurred.

H.A. Pocock Limited. £121.30. This was challenged on the basis that it was an excessive charge just to clear one gully. However, the Tribunal found that this charge was reasonably incurred.

H.A. Pocock Limited. £108.22. Mr. Lees pointed out that the invoice was dated 12th February 2010 and that a certain amount of time had passed since the previous work to the door and that there was also work to a handrail. The Tribunal found that this charge was reasonably incurred.

H.A. Pocock Limited. £105.92 challenged. There was no information as to the works involved and the Tribunal was not satisfied that the charge was reasonably incurred. Consequently there is a reduction of £105.92.

39. Major Works

(a) The production of the specification and final accounts was helpful to the Tribunal in making a determination in respect of the major works. When this matter was transferred to the Leasehold Valuation Tribunal the parties had the opportunity to produce witnesses but did not do so. On behalf of the Landlord, Mr. Lees stated that the Landlord was content to leave the matter to the Tribunal as an expert tribunal, assisted by the documents and photographs produced, to make a determination. That the Tribunal has done using its expertise and knowledge.

(b) A charge of £5,875 was made for the installation of a communal aerial upgrade system and a charge of £420 was made to provide a clean earth and electrics for that installation. As that work was not included in the Section 20 consultation procedure the charge is not payable. Consequently there is a reduction of £6,295.00

(c) The inspections of the exterior from outside the Building and from the Flat showed that some work had been carried out but that a substantial amount had not been carried out to a reasonable standard. In particular, deductions have to be made for the unreasonable standard of work carried out to the windows, gutter on top of the bays and the render.

(d) The works included the painting or staining of external woodwork. There was not a great deal of external woodwork; just frames and cills. However, from the inspections of the Building, the Tribunal came to the conclusion that whether woodwork had been painted or stained there had not been proper preparation. Not all the woodwork could be closely inspected but that which the Tribunal saw at the inspections had not been prepared properly and it was likely that the position was similar in respect of other woodwork. This was indicative of a lack of supervision. As a result, the cost of rectification has escalated by at least the cost of re-scaffolding.

(e) Photographs of the guttering show inadequately executed works. The treatment should have extended further up the return walls and have been dressed under the tile hanging.

(f) From the inspections and photographs there were clear signs that the work to the render had been done to an unsatisfactory standard. In particular the Tribunal could see a crack on the front of the Building and dark areas which indicated inadequate attention to detail and finish. The Tribunal would not expect to see such discolouration after such a short time. The indication was that there was a problem needing further investigation. The Tribunal found that the works were poorly executed and were allowing water penetration. Certainly there was a problem with water penetration in the Flat.

(g) The final charge for the major works is shown to be £134,409. The charge of £6,295 for the aerial upgrade must be deducted leaving £128,114.

(h) The Tribunal found that 25% of that sum (£32,028.50) should be deducted to take account of the unreasonably poor quality of the works, leaving £96,085.50.

(i) The Tribunal found that the fee of £10,669 for supervision required to be reduced by 50% (£5,334.50) to take account of the inadequate supervision.

40. The deduction from the costs of major works is £43,658.00 and from the other works £8,507.43 making a total of £52,165.43. As the Lessee is liable to pay 5.80% of the service charges, the sum claimed from him requires a reduction of £3,025.59.

41. There is before the Tribunal an application for an order under Section 20C of the Act. The Tribunal found that it was just and equitable in the circumstances to make such an order because the Lessee was justified in contesting these proceedings to clarify the position and no submissions were made on behalf of the Landlord in opposition to the application.

(Signed) R. Norman

R. Norman
Chairman

(f) From the inspections and photographs there were clear signs that the work to the render had been done to an unsatisfactory standard. In particular the Tribunal could see a crack on the front of the Building and dark areas which indicated inadequate attention to detail and finish. The Tribunal would not expect to see such discolouration after such a short time. The indication was that there was a problem needing further investigation. The Tribunal found that the works were poorly executed and were allowing water penetration. Certainly there was a problem with water penetration in the Flat.

(g) The final charge for the major works is shown to be £134,409. The charge of £6,295 for the aerial upgrade must be deducted leaving £128,114.

(h) The Tribunal found that 25% of that sum (£32,028.50) should be deducted to take account of the unreasonably poor quality of the works, leaving £96,085.50.

(i) The Tribunal found that the fee of £10,669 for supervision required to be reduced by 50% (£5,334.50) to take account of the inadequate supervision.

40. The deduction from the costs of major works is £43,658.00 and from the other works £8,507.43 making a total of £52,165.43. As the Lessee is liable to pay 5.80% of the service charges, the sum claimed from him requires a reduction of £3,025.59.

41. There is before the Tribunal an application for an order under Section 20C of the Act. The Tribunal found that it was just and equitable in the circumstances to make such an order because the Lessee was justified in contesting these proceedings to clarify the position and no submissions were made on behalf of the Landlord in opposition to the application.



R. Norman
Chairman