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FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00BE/LSC/2014/0531**
Property	:	**Flats A and B, 20 Peckham Hill Street, London SE15 6BN**
Applicant	:	**Joseph Alexander**
Representative	:	**In person**
Respondent	:	**London Borough of Southwark**
Representative	:	**Mr J Egboche, officer**
Type of application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal members	:	**Judge Hargreaves** **Lucy West**
Date and venue of hearing	:	**10 Alfred Place, London WC1E 7LR** **23rd March 2015**
Date of decision	:	**24th April 2015**

DECISION

Decisions of the tribunal

(1) The tribunal determines that nothing is payable by the Applicant in respect of the service charges claimed in respect of major works for the years referred to in this application.

(2) The tribunal makes the determinations as set out under the various headings in this decision.

(3) The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985so that none of the landlord's costs of the tribunal proceedings may be passed to the lessee through any service charge.

(4) The tribunal determines that the Respondent shall pay the Applicant £440 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") of his liability to pay service charges of £11,584.11 in respect of Flat A and £6,247.47 in respect of Flat B. These figures have been abandoned by the Respondent as will be seen.

2. The background to the application as it appeared to the Tribunal at the date of a case management conference held on 11th November 2014 is set out in paragraphs 2-4 of Judge Andrew's comments.

3. The relevant legal provisions are set out in the Appendix to this decision.

4. Page references are to those in the trial bundle where appropriate.

The hearing

5. The Applicant appeared in person at the hearing and the Respondent was represented by Mr Egboche, one its officers familiar with this type of application, but not necessarily with the detail of this case. In that respect he and the Tribunal were much assisted by one of his witnesses, Carla Blair, as will be seen, though much of the useful evidence she provided was extricated by the Tribunal at the hearing, rather than being addressed in any detail in her witness statement (p305).

6. Judge Andrew's directions were detailed (p48). Had the requirements of paragraph 7 been dealt with in a straightforward way, the hearing

would not have been delayed for around 45 minutes while we asked Mr Egboche, with the assistance of Mrs Blair, to identify the documents provided by the Respondent which addressed each category listed by Judge Andrew. They were otherwise hard to locate in a mass of documents containing many print-outs, some of which were undated, some duplicated, and many of which appear to have been produced as the result of a desk top exercise rather than as a careful response to the Tribunal's reasonable requirements. The disclosure exercise highlighted the Respondent's difficulties in organising its evidential case when the background to the Applicant's liabilities is a very small part of a major works exercise covering improvements to many properties in the Peckham area under a decent homes scheme.

7. For the avoidance of doubt, and to assist with understanding this decision, the relevant documents required to be disclosed are located in the bundle as follows:-

7.1 **Pre-specification survey report or survey** relating to the property: at p159 is an LBS document (which was in the end superseded[1]) relating to 20A and 20B calculating that nearly £33,000 would be payable by the Applicant. This document was sent with the s20 notices according to the Respondent. At p181/185 is a contractor's summary of works to 20A and B with a total of just over £24,000 worth of works. Neither of these documents is a survey as such and each proved to be excessive as to suggested amounts.

7.2 **The consultation notices:** (exhibited to the Applicant's statement): on 21st July 2006 a s20 notice was sent in respect of 20A (p268, p159 attached), and in respect of 20B (p277, same p159 attached)[2]. The notices were sent to the "leaseholder" of each property and set out the proposed works, forming part of a QLTA and setting out in each case the proposed basis of re-charging the then estimated combined service charge of £32,960.93. The Respondent's approach was to assess the Applicant's liability on the basis that he owed six elevenths and five elevenths of a block (20A and 20B) worth together eleven units. 20A as a two bedroomed unit was worth six elevenths (£17,978.69), and 20B as a one bedroomed unit, five elevenths (£14,982.24). Notably, these notices did not refer to the provisions of the relevant leases, nor did they explain how the calculation related to a pair of semi-detached houses converted horizontally into four flats, a fact that has added a certain amount of confusion to the case.

7.3 **The priced specification of works:** see p159 and p181/185 (7.1 above).

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[1] The only works done by the Respondent - extent disputed - amounted to the installation of windows and external decorations.

[2] At no time did the Respondent rely on the documents in the bundle at p51-75 which were obviously superseded.

7.4 **Any contract instructions and/or variation orders issued during the course of the works:** the only document produced by the Respondent is at p116, see item 42 (replace all wooden windows at the rear with UPVC ones).

7.5 **The contractor's invoices:** p333-358, but these are so general that it is impossible to discern what was paid out in respect of 20A and 20B, though it appears the works would have been completed between November 2006 and April 2009 (defects by April 2010).

7.6 **All payment certificates issued by those responsible for supervising the works and the final account:** the Respondent relied on p333-358 (see 7.5).

7.7 **The service charge demands sent to the Applicant for both the on account payments and the actual cost:** the estimated demand for 20A is at p285, dated 26th October 2006, in the sum of £19,210.23. The final account is at p294-297 (16th May 2013) in the sum of £7,626.12. The estimated demand for 20B is not in the bundle (£16,008.52). The final account is at p288-292, for £6,355.10. At p292 is a summary of the total block costs for 20A and 20B which lists as relevant charges (i) external decorations £2,183.90[3] (ii) windows £2,394.75 [4](iii) shared saving £4,292.65 (iv) offsite costs and profit £528.41 (v) scaffolding £2,360.50 (vi) preliminaries £1,324.70, totalling £13,084.91.

7.8 **An explanation of the work actually carried out at 20 Peckham Hill Street:** the Respondent's case is that eight new windows were installed to the rear as itemised on p99[5] ie £1561.89 for 20A and £832.85 for 20B (£2394.75). As far as external decorations are concerned, see p82 which shows the charge for 20A at £5,146.79 and 20B at £1,792.36, neither of which help to explain the sum of £2,183.90 at p292, so that item has to be regarded as basically unexplained, but at least is the lowest figure supplied and the one relied on by the Respondent.

7.9 **A methodology explaining how the total contract cost was apportioned between the various properties and in particular to 20 Peckham Hill Street:** the Respondent relied on the information referred to in 7.7 above. It then changed its mind after the CMC on 11th November 2014 and deleted the "shared saving cost" from the charge and issued a revised statement at p303 claiming new totals of £5124.29 and £4270.24, a figure just over £9300. The reduction failed to impress the Applicant whose case has been basically (i) he never saw any external decorations carried out and (ii) he cannot recall

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[3] See p104-5

[4] See p99

[5] See p116

new windows being installed. We do not have to deal now with the "shared savings cost" element.

7.10 It is notable that the Respondent did not include a category of documents which appear at p316-324 in its analysis. These documents are headed "Major Works Final Account Summary" relating to 20A and 20B, with reference to the years 2006/2007, 2007/2008, 2009/2010, 2011/2012 for 20A and for 2006/2010 and 2011/12 for 20B respectively (so even now these invoices or demands are incomplete in relation to 2008/2009, 2010/2011 for 20A and 2010/2011 for 20B). They refer to the s20 notice and indicate on all of them that the major works were carried out between 9th November 2006 and 15th December 2009. They apportion the completed major works between the service charge years and charge the Appellant backdated sums. These demands, according to the Respondent in closing submissions but not evidence, were sent out after May 2013 but before the hearing, to take into account a decision which Mr Egboche referred to as a Lands Tribunal case relating to 18 Rochester House which was regarded by the Respondent as requiring some changes to their practice regarding service charge demands and major works charges: but see eg *The London Borough of Southwark v Woelke* [2013] UKUT 0349 (LC), Martin Rodger QC (18th July 2013). These demands are produced in section K of the bundle, the Respondent's additional documents. It is simply not possible without sight of the covering letters to come to any conclusions when and if, on the balance of probabilities, these documents were sent to the Appellant, whose pleadings and evidence do not refer to them. Neither do the Respondent's. Mr Egboche did not cross examine the Applicant on the question whether or not he received these demands and when and he was unclear as to when he received them if at all.

The background

8. The Tribunal had not been invited to inspect the property and did not do so. By the end of the hearing, with the assistance of the Applicant and certain photographs, the layout was understood. To look at 20 and 18 Peckham Hill Street is to look from the street at a pair of semi-detached three storey houses with steps up to the ground floor, a first floor, and a semi-basement, with a black front door on the left which one would assume leads to no.20 and a blue front door on the right which one assumes would lead to no. 18. There are single windows at the front to the side of the front doors and two windows at first floor level above. All very standard and easy to follow from photographs produced by one of the Respondent's witnesses. But in fact, two of the four flat conversions are horizontal conversions. 18A extends across the combined first floor and is accessed by the blue front door. 20A is accessed by the black front door and is the raised ground floor conversion underneath 18A. 20B and 18B are the more standard conversions: 20B is the semi-basement on the left hand side and 18B is the semi-basement on the right hand side. It is a matter of regret that

the Applicant proceeded to undertake major works to the rear of 20B and part of 20A after the CMC without taking photographs, so those that we looked at showed substantial recent changes to the rear of the Applicant's property which made it impossible to see the extent of the works which had actually been implemented to the rear by the Respondent, as some of them were no longer extant. The Applicant believed that the Judge had sanctioned this step by something he said at the CMC.

9. The Applicant's lease of 20A is at p12. The case proceeded on the basis that the lease for 20B is in all respects identical. A 125 year term was granted under right to buy provisions on and from 24th January 1994. It appears that 20A and 20B would be known as the relevant *"flats"*, and *"the building"* is defined as *"the building known as 20A-20B Peckham Hill Street including any grounds gardens yards or other property appertaining exclusively thereto."* There is nothing to suggest the somewhat unusual lay-out. The flats do not include the external windows or walls or the roof. By clause 2(3)(a) the Applicant is liable *"To pay the Service Charge contributions set out in the Third Schedule hereto at the times and manner there set out"* with provision for interest on late payments at clause 2(3)(b). The Respondent's repairing covenants are at clause 4 (p260). The service charge provisions are at p36 in the Third Schedule. A *"year"* is 1st April-31st March (paragraph 1). Time is not of the essence for service of any notices (paragraph 1). There is provision for estimated service charges to be raised and paid on account on defined payment days (paragraph 2). Paragraph 4 (p37) provides for the issue of a service charge claim for the balance after payment of the estimated service charge, with a summary of the costs due, and payment within a month. Under paragraph 6(1) *"The Service Charge payable by the Lessee shall be a fair proportion of the costs and expenses set out in paragraph 7 of this Schedule incurred in the year (2) The Council may adopt any reasonable method of ascertaining the said proportion and may adopt different methods in relation to different items of costs and expenses"*. The recoverable and chargeable expenses are set out in paragraph 7 of the Third Schedule: the relevant ones are 7(6)(7)(9). See also paragraph 8.

The issues

10. Judge Andrew analysed the issues at paragraph 5 of the CMC directions (p47). Before proceeding to deal with those issues, it would be sensible to consider the evidence. The Respondent presented its case first so that the Applicant had the opportunity to consider what its case actually was on the facts, bearing in mind the reduction in the amount of the claim between 2006 and 2013, and then after the CMC, and given the lack of precision readily available from the documents. The Applicant's statement of case at p239 (2nd February) really put the Respondent to proof and raised a number of legal issues which were addressed in the Respondent's statement of case (p249 served as recently as 6th March) which although a lengthy reply, is hard to follow

in places because of citation of authorities (and a certain amount of cut and pasting) which would be better presented in a skeleton argument. The Respondent's pleading met with a reply from the Applicant served on 13th March. The Applicant's pleadings were settled by a legally qualified representative (it appeared) though the Applicant was in person at the hearing.

11. Stanley Lyons gave brief evidence for the Respondent, producing with permission a witness statement that he had prepared on the Friday afternoon before the hearing because Martin Fang, the original intended witness, was no longer available. Mr Lyons a straightforward witness but could not give any useful direct evidence, his account being based on what he was told was relevant by other officers of the Respondent, and a site visit on Friday at which he took some photographs. Those photographs triggered the evidence that he had not been aware that 18 and 20 were laid out as described above, and this really weakened any observational evidence he gave. He was also more realistic and hesitant in the witness box about endorsing the works which the Respondent said had been carried out to the front of the building, as he accepted that the standard of workmanship he recorded in terms of paintwork to the front windows was not particularly high, though he is right in balancing that with noting that Peckham Hill Street is a busy road and no maintenance had been carried out. However the external windows are not the Applicant's responsibility, and it remains unclear when the works actually were carried out or what was actually done, and it is not at all clear that any criticism as to ongoing maintenance is a matter for the Applicant rather than the Respondent given the terms of the lease. Martin Fang's statement adds nothing to the Respondent's case (p303) because again it is no more than a desk top exercise and fails to descend to any useful particulars. It exposes the Respondent's inability to access hard evidence.

12. Carla Blair's written evidence (p305) was also a desk top exercise but she demonstrated more than a superficial knowledge of the relevant history in assisting Mr Egboche to identify the documents required under paragraph 7 above, and in frankly admitting in cross examination that it (now) transpired that the Respondent had made incorrect assumptions about the interrelationship between and lay-out of 18 and 20, she made a helpful contribution to clearing up one of the vexed issues in the case. That meant, however, that her stout defence in oral evidence as to how the service charges were attributed to 20A and 20B (as part of a block worth eleven units in total) is arguably unsupported by evidence (but see paragraph 29). At the very least the Respondent would be required (arguably) to show how the costs attributable to the Applicant's properties fitted in with the costs attributable to 18A and 18B and that was not an exercise that had ever been done. Alternatively, if it had been done, it was not clarified on the papers before the Tribunal.

13. The Applicant gave oral evidence and was cross examined on his statement (p262). Whilst he maintained that his correspondence with the Respondent in relation to querying the service charge and the presence of scaffolding was copious, it is hard to consider as none of it was disclosed (by either party). His case on the facts is very brief and is encapsulated at paragraphs 16 and 17 of his witness statement. It is hard to reconcile paragraph 16 with what he later said in the witness box ie that he was a regular/monthly visitor in his capacity as landlord of the flats. It is correct that the substantial works he is undertaking to the rear of part of 20 has involved the removal of windows (belonging to the Respondent as Mrs Blair observed) and made the Tribunal's task of working out was what done, harder. Given that these works started after the CMC his failure to record the previous situation is puzzling and cannot really be due to anything said at the CMC as he seeks to explain, unless he misunderstood the situation. Overall the Applicant's evidence as to the state of the property when he purchased in around 2004 and as to what happened subsequently with the Respondent was on the vague side.

14. On analysis, the Applicant's factual evidence comes to this. He says he only saw scaffolding up at the front of the property (but cannot give dates), never at the back, but it was unclear whether and if so he would go round to the back of the property and it is therefore unclear whether the reason why he never saw scaffolding was simply because he never looked at the right time and his tenants were less than comprehensive with the supply of detailed information. Although his evidence that there were only six side and rear windows belonging to his properties must be correct (not the eight he was charged for), his unwillingness to accept that the Respondent did install new windows (when there is clear photographic evidence that 18A has UPVC windows across the rear first floor of 18 and 20) is not, on the balance of probabilities, credible: his evidence about that was hesitant and he was unable to give a full description of the windows he had originally. (Eg he thought he had replaced one window which had been broken in a burglary.) On the balance of probabilities we have come to the conclusion that the Respondent installed six new UPVC windows to 20A and 20B. The fact that the Respondent has removed some of them is obviously irrelevant.

15. Further, if new windows were installed to the rear of the building at first floor level it is probable that scaffolding and rear decorations were used and carried out. In particular the photographs of the building show the rear to have been rendered and to the extent that it is possible to come to any conclusions, we have concluded on the balance of probabilities, taking into account the evidence as a whole, that in addition to installing six windows, some works to the outside of the building would have been carried out, front and rear. The Respondent accepts no works were done to the roof.

16. 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.

Consultation requirements: s20 LTA 1985

17. See p268 and p277 for copies of the s20 notices served under Schedule 3 of the relevant Consultation Regulations (SI 2003/1987) in July 2006. The Applicant made no response which is in evidence. Apart from pleading that the Applicant was not consulted on "shared savings provisions" there is no express pleading by the Applicant (paragraphs 11-13 p240) that the Respondent's notices were invalid or that there was no s20 consultation. As to consultation the Respondent's case first relies on *Gilje v Charlegrove Securities* [2003] EWHC 1284 (Ch) (see p250) which is not actually on this point, before dealing again with its position on consultation in paragraphs 29-33 (p254 though query paragraph 30 on the evidence). The Applicant's response does not take issue with this position.

18. On the evidence before the Tribunal, taking into account the parties' submissions, the consultation requirements of s20 were satisfied by the Respondent.

Calculation of service charges and demands in accordance with the lease

19. Neither party pleaded with any clarity their respective positions on the question whether the Respondent's communications with the Applicant comply with the contractual provisions of the lease. The Respondent's case seems to be that the S20 consultation notices qualify as estimated demands alternatively the October 2006 invoices qualify as demands on account of estimated charges. Then in closing Mr Egboche relied on the documents referred to in paragraph 7.10 above but there is no reliable evidential context for that, which therefore excludes that possibility on the facts.

20. Unpicking the Respondent's case on whether any of the above documents qualify as contractual service charge demands (excluding those in paragraph 7.10 as to which there is no reliable evidence before the Tribunal which would enable it to come to any conclusion that these documents were served or when) leads to this analysis. (See paragraph 7.7 for the details of the relevant demands.) The history of the various notices, invoices and credit notes is summarised by the Applicant so far as available documents are in evidence in paragraphs 9-14 of his statement at p263, accepted by the Respondent as accurate ie (i) s20 consultation notices sent July 2006 (ii) invoices based on estimated charges in October 2006 (iii) credit notes sent in May 2013 (iv) revised credit note after the CMC in 2014. The s20 notices refer to the leases and the fact that they allow the leaseholder to be invoiced on an

estimated charge, but they specifically do not amount to an invoice, and therefore cannot qualify as an estimate payable under clause 2(1)(2) of the Third Schedule.

21. Turning to the October 2006 invoice for 20A at p285, it is worth noting that the accompanying letter dated 25th October 2006 at p284 refers to the s20 notice before referring to "the enclosed invoice". The invoice gives the Applicant a range of payment options which do not refer to paragraph 2 or 4 of the Third Schedule. Nothing in the documentation refers to the Third Schedule or the service charge year in respect of which the payment is to be made though it arguably supplies information meeting the requirements of paragraph 8. Turning to the *Woelke* decision paragraphs 40-58, which contain a discussion about the requirements of the Third Schedule provisions, which apply to this case, it leads the Tribunal to conclude that these invoices for the major works were not compliant with the Third Schedule of the leases. The same conclusion must apply to the documents in (iii) and (iv) for similar reasons. Without being able to put a date of service on the additional documents at p315 (etc), even though time is not of the essence under the Third Schedule, it is simply not possible for the Tribunal to analyse (without more information) how these documents are Third Schedule compliant.

S20B(1)(2) LTA 1985

22. If the Tribunal is correct in its conclusion that the Respondent cannot show the Tribunal that it served compliant Third Schedule service charge demands, then strictly speaking it is unnecessary to decide the debate about the application of s20B(1): see eg Morgan J, paragraph 53, *LB Brent v Shulem B Association Limited* [2011] EWHC (Ch) 1663. However if the Tribunal is wrong about the lack of compliant service charge demands, it deals with the issue as follows. The Applicant's statement of case paragraph 14-18 (p240) pleads that the Respondent has not complied with s20B LTA 1985. The Applicant's pleading cites *Shulem B Association Ltd* and the Respondent relies on *Gilje* (see above) and submits there is no s20B difficulty. S20B requires a demand for expenses incurred rather than being based on mere estimates.

23. The only final demands for monies said to be incurred by the Respondent were served in May 2013 taking the form of credit notes issued against the 2006 estimates, producing much smaller actual balances to be paid by the Applicant, who admits that he has refused to pay the Respondent anything on account of the demands served in the autumn of 2006 or since. S20B(1) provides that *"[relevant] costs are not recoverable if they were incurred more than 18 months before being demanded. However, by virtue of s20B(2), the bar to recovery does not apply in the event that the tenant was informed in writing within 18 months of the costs being incurred and that the same would be recoverable from the tenant"* (see *Service Charges and*

Management, 3rd ed Tanfield Chambers 19-006). *"Relevant costs"* are *"incurred"* for the purpose of s20B(1) when a demand is submitted by the supplier or when payment is made (19-007). According to the Respondent's documents at p315 etc major works payments were made in the years 2006/2007, 2007/2008, 2009/2010, 2011/2012. The only final demands which the Tribunal can find were made are those raised on 16th May 2013. It follows that substantial payments were incurred more than 18 months before 16th May 2013 (only £46.87 for 20A and 20B were said to be chargeable in relation to the service charge year 2011/12). That analysis is only possible on the basis of these late served documents at p315 etc.

24. So is the Respondent saved by s20B(2) in relation to costs claimed prior to the service charge year 2011/2012 (assuming all other conditions to be satisfied)? On the evidence before the Tribunal the only documents received by the Applicant until May 2013 were estimates. Mr Egboche's submission that *Gilje* saves the Respondent from the s20B(1) difficulty is rejected: the s20B(1) bar to recovery does not apply where the Applicant had been informed in writing within 18 months of the costs being incurred, that those costs had been incurred and that the same would be recoverable from the tenant. The point of *Gilje* in this context is that s20B *"has no effect where payments on account have been made in respect of service charges and the actual expenditure by the lessor does not exceed the payments on account, such that there is no need for any further demand to be made of the tenant and no such demand is made" (Service Charges and Management* 14-007 and 19-008 generally). In this case there were no on account payments, contrary to Mr Egboche's submissions. The Applicant is not liable to pay a balancing charge in respect of costs incurred more than 18 months before the demand.

S19 LTA 1985: reasonableness

25. If the Tribunal is wrong about the Respondent's right to recover any service charge arrears, then the question of s19 reasonableness arises. We consider it sensible, having heard the evidence and submissions, to set out our findings on this question, which can be done relatively briefly, starting with the identical tables at p292 and p297. Having decided that the Respondent charged £2394.75 for eight windows, that is plainly unreasonable if there were only six, as we found. A 25% discount is therefore appropriate in the absence of any evidence as to the size or cost of the windows, and that reduces the sum chargeable for windows for both properties at 20A and 20B to £1796.07.

26. As to external decorations, although the Tribunal accepts that external decorations were carried out, there must be a deduction of 40% to represent the fact that there was a real doubt about the satisfactory standard of the works to the front, and some real doubt as to the extent of works reasonably incurred overall. A reasonable sum for external

decorations so far as the Applicant's property is concerned is therefore £1310.34.

27. The combined total is £3106.41.

28. In considering the reasonableness of these charges we take into account the Respondent's failure to demonstrate how the Applicant's liability for 20A and 20B was apportioned with that of the rest of the building comprising 18A and 18B, and focus only on 20A and 20B.

29. We consider however that it is reasonable to treat 20A and 20B as a unit of 11 for the reasons given by the Respondent. Applying the same calculation as the Respondent, the share attributable to 20A is £1694.40 and that to 20B is £1412. The professional fees at 2.85% and administration fee at 4% are also reasonable. Adding those figures to 20A (£48.28 and £67.77) the service charge which would be due would be £1810.45. The amount due in respect of 20B (£40.30 and £56.48) would be £1508.78.

30. It is a given that the Tribunal ignores the shared savings cost which the Respondent no longer seeks to justify as reasonably incurred.

Application under s.20C and refund of fees

31. 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 and hearing. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal orders the Respondent to refund any fees paid by the Applicant because his decision to challenge the Respondent's charges resulted in a prompt revised offer from the Respondent in December, and further deductions at the hearing, in addition to succeeding on various technical points. As the Respondent kindly indicated it would not oppose a s20C order, the Tribunal determines (although the landlord indicated that no costs would be passed through the service charge, for the avoidance of doubt) 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.

Name: Judge Hargreaves
Lucy West

Date: **24th April 2015**

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
   (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
   (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
   (a) "costs" includes overheads, and
   (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
   (a) only to the extent that they are reasonably incurred, and
   (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;
   and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 27A

(1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,

(d) the date at or by which it is payable, and
(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) 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.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
(a) has been agreed or admitted by the tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
(a) complied with in relation to the works or agreement, or
(b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or
(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
(a) an amount prescribed by, or determined in accordance with, the regulations, and
(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

Section 20B

(1) If any of the relevant costs taken into account in determining the amount of any service charge were incurred more than 18 months before a demand for payment of the service charge is served on the tenant, then (subject to subsection (2)), the tenant shall not be liable to pay so much of the service charge as reflects the costs so incurred.

(2) Subsection (1) shall not apply if, within the period of 18 months beginning with the date when the relevant costs in question were incurred, the tenant was notified in writing that those costs had been incurred and that he would subsequently be required under the terms of his lease to contribute to them by the payment of a service charge.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or the Upper Tribunal, or in connection with arbitration 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 tenant or any other person or persons specified in the application.

(2) The application shall be made—
- (a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
- (aa) in the case of proceedings before a residential property tribunal, to that tribunal;
- (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property tribunal;
- (c) in the case of proceedings before the Upper Tribunal, to the tribunal;
- (d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 1

(1) In this Part of this Schedule "administration charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent which is payable, directly or indirectly—
- (a) for or in connection with the grant of approvals under his lease, or applications for such approvals,
- (b) for or in connection with the provision of information or documents by or on behalf of the landlord or a person who is party to his lease otherwise than as landlord or tenant,
- (c) in respect of a failure by the tenant to make a payment by the due date to the landlord or a person who is party to his lease otherwise than as landlord or tenant, or
- (d) in connection with a breach (or alleged breach) of a covenant or condition in his lease.

(2) But an amount payable by the tenant of a dwelling the rent of which is registered under Part 4 of the Rent Act 1977 (c. 42) is not an administration charge, unless the amount registered is entered as a variable amount in pursuance of section 71(4) of that Act.

(3) In this Part of this Schedule "variable administration charge" means an administration charge payable by a tenant which is neither—
  (a) specified in his lease, nor
  (b) calculated in accordance with a formula specified in his lease.

(4) An order amending sub-paragraph (1) may be made by the appropriate national authority.

Schedule 11, paragraph 2

A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

Schedule 11, paragraph 5

(1) An application may be made to the appropriate tribunal for a determination whether an administration charge is payable and, if it is, as to—
  (a) the person by whom it is payable,
  (b) the person to whom it is payable,
  (c) the amount which is payable,
  (d) the date at or by which it is payable, and
  (e) the manner in which it is payable.

(2) Sub-paragraph (1) applies whether or not any payment has been made.

(3) The jurisdiction conferred on the appropriate tribunal in respect of any matter by virtue of sub-paragraph (1) is in addition to any jurisdiction of a court in respect of the matter.

(4) No application under sub-paragraph (1) may be made in respect of a matter which—
  (a) has been agreed or admitted by the tenant,
  (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  (c) has been the subject of determination by a court, or
  (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

(6) An agreement by the tenant of a dwelling (other than a post-dispute arbitration agreement) is void in so far as it purports to provide for a determination—
  (a) in a particular manner, or

(b) on particular evidence,

of any question which may be the subject matter of an application under sub-paragraph (1).