1B022

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	:	**LON/00AY/LSC/2018/0177** **LON/00AY/LSC/2018/0270**
Property	:	**7 Brixton Hill Court, Brixton Hill, London, SW2 1QX**
Applicant	:	**Brixton Hill Court RTM Company Limited**
Representative	:	**Mr Jonathan Wragge (Counsel) instructed by PDC Law**
Respondent	:	**Mr Michael Haran**
Representative	:	**In Person**
Type of application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal Members	:	**Judge Robert Latham** **Mr Peter Roberts DipArch RIBA**
Date and Venue of Hearing	:	**13 September 2018 at 10 Alfred Place, London WC1E 7LR**
Date of decision	:	**18 October 2018**

DECISION

Decisions of the Tribunal

LON/00AY/LSC/2018/0177 (County Court Referral)

(1) The Tribunal determines that the interim service charge years 2016/7 (two six-monthly demands of £1,139.95) and 2017/8 (one six-monthly demand of £1,585.46) are reasonable and payable subject to the following adjustments:

(i) 2016/7: a deduction of £25.41 for legal and professional fees (see [41] of the determination);

(ii) 2017/8: a deduction of 50% (i.e. for the 1st six-monthly demand) in respect of:

(a) The management charge which is capped at £100 per annum (see [23] to [25]). The management charged for 2017/8 is £205.76, whereas it should be capped at £100.

(b) £23.30 in respect of legal and professional charges (see [42]);

(2) The Tribunal determines that administration charges of £270 are payable (see [47-49] below).

(3) Since the Tribunal has no jurisdiction over county court costs and interest, this matter should now be referred back to the Clerkenwell and Shoreditch County Court.

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(4) The Tribunal makes the determinations in respect of the following service charge years:

(i) 2014/5: The sums demanded are reasonable and payable, save that an adjustment of £2.23 must be made for sundries (see [44]).

(ii) 2015/6: The sums demanded are reasonable and payable.

(iii) 2016/7: see above;

(iv) 2017/8: see above;

(v) 2018/9: An adjustment must be made for management charges for the period 1 April to 13 September 2018 which are capped at £100 pa.

Further Determinations

(5) The Tribunal determines that the Respondent shall pay the Applicant £100 within 28 days of this Decision, in respect of the reimbursement of 50% of the tribunal fees paid by the Applicant.

(6) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985.

The Applications

1. The Tribunal is required to determine two applications pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as to the amount of service charges and administration charges payable. The Applicant is Brixton Hill Court RTM Company Limited (the "RTM") which has managed Brixton Hill Court (the "Block") since 27 January 2015. Mr Haran (the "Tenant") is the lessee of Flat 7.

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2. On 2 October 2017, the RTM issued proceedings in the Money Claims Centre claiming a total of £4,834,35, namely arrears of service charges of £3,472.35, administration fees of £522.00 and costs of £840.00. The claim for service charges relate to the service charge years 2016/7 (two six-monthly demands of £1,139.95) and 2017/8 (one six-monthly demand of £1,585.46). The Particulars of Claim are at p.3-6.

3. On 2 January 2018, Mr Haran filed a Defence and Counterclaim (at p.59-61). Mr Haran takes issue with the payability and reasonableness of a number of administration charges. He also Counterclaims seeking damages for harassment.

4. On 25 April 2018, District Judge Manners, sitting at the Clerkenwell and Shoreditch County Court, transferred Case No. D08YY025, to this Tribunal. The Tribunal has no jurisdiction in respect of the claim for costs. Mr Haran informed the Tribunal that he does not intend to proceed with his Counterclaim.

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5. On 17 July 2018, the Tenant issued this application in respect of the service charges payable for the years 2014/5, 2015/6, 2016/7, 2017/8 and 2018/9. The only item in dispute in respect of the service charge 2014/5 is the management charge payable for the period 27 January 2015 to 31 March 2015. The Tribunal is not required to determine any specific item in the interim service charge for the service charge year 2018/9, but some of our findings in respect of the years 2015/6, 2016/7 and 2017/8 will be relevant to this year.

6. The Tribunal gave Directions on 5 June and 30 July 2018 pursuant to which:

(i) The parties have prepared a Scott Schedule which identifies the issues in dispute. The RTM was required to complete it first, and the

Schedule therefore includes a number of items which are not in dispute. Mr Haran has identified the items which he disputes.

(ii) The RTM has filed a Statement of Case, a Reply and a witness statement from Mr Robert Cox, a Regional Manager

(iii) Mr Haran has filed two Statements of Case, a witness statement and a statement from Ms Yael Loewenstein.

(iv) The Applicant has produced a Bundle of Documents which totals 456 pages. Reference to this Bundle is to the page number ("p.___"). The relevant legal provisions are set out in the Appendix to this decision.

The Hearing

7. The RTM was represented by Mr Jonathan Wragge (Counsel), instructed by PDC Law. He adduced evidence from Mr Cox who we found to be a careful and reliable witness. He is the Regional Manager of the managing agents, Warwick Estates Property Management Limited ("Warwick"). He has been responsible for the management of Brixton Hill Court since about November 2016.

8. Mr Haran appeared in person and gave evidence. He has practiced as a Solicitor. Ms Yael Loewenstein attended the hearing. Mr Wragge did not wish to cross examine her. Her statement (at p.409-411) is therefore unchallenged. She is the tenant of Flat 54. She was a director of the RTM from 30 October 2012 to 21 March 2013. She resigned from the RTM on 2 April 2014.

9. The parties produced a number of additional documents which were added to the Bundle as P1-70 and R1-28. Mr Haran took us through a large number of documents. On 15 July 2018, he had applied for further disclosure. This had been refused by the Tribunal. On occasions, the Tribunal had to refer Mr Haran back to the Scott Schedule which identifies the issues which we are required to determine.

The Lease

10. The lease is at p.146-74. The Lessee's contribution towards the service charge expenses is 0.77683%. The parties highlighted the following provisions:

(i) The definition of "the Reserved Property" which incudes the main structural walls of the building, including internal load bearing walls.

(ii) By Clause 2, the Lessee covenants to pay a service charge which is reserved as rent. This includes the costs of insuring the Brixton Hill

Court. The service charge expenditure is specified in the Fourth Schedule. The Lessor's financial year runs from 1 April to 31 March. Provision is made for the service charge to be ascertained and certified. Interim service charges may be collected on 25 March and 29 September. The Lessor may establish a reserve fund.

(iii) By Clause 3 (i), the Lessor covenants to maintain, redecorate, renew, amend, clean, and repair the structure of the Reserved Property. By Clause 3(ii), the Lessor covenants:

(a) "to keep clean and reasonably lighted the passages landings staircases and other parts of the Reserved Property enjoyed or used by the Lessee in common with others"; and

(b) "to tend keep clean and tidy and generally to maintain the gardens and pathways comprised in the Reserved Property."

11. The Fourth Schedule specifies the Lessor's expenses and outgoings which it is entitled to recover through the service charge. This includes:

(i) The expenses of maintaining, repairing, redecorating, renewing, amending, cleaning and decorating the Reserved Property and all parts thereof (paragraph 1);

(ii) "The cost of cleaning decorating maintaining renewing and lighting painting and repairing the passages landings staircases and other parts of the Reserved Property" (paragraph 4)

(iii) The fees of the Lessor's managing agents (paragraph 6);

(iv) All fees and costs incurred in respect of the annual certificate of accounts (paragraph 7);

(v) "The upkeep of the gardens used at Brixton Hill Court" (paragraph 9).

12. The Lessee is obliged to pay the Lessor all costs, charges and expenses (including legal costs and fees payable to a Surveyor) which may be incurred by the Lessor incidental to the preparation and service of a Section 146 Notice (Clause 2(11)).

13. The Lessee covenants to keep the Lessor indemnified from and against a share of all costs, charges and expenses incurred by the Lessor in carrying out its obligations under the lease (Clause 2(xix)).

The Background

14. Brixton Hill Court is a mansion block which was constructed in the 1930s. There are Art Deco features to the design. The block consists of 144 flats in a six-storey block. Flats 1-88 (including Flats 5A and 12A) are at the front; whilst flats 89-142 are at the rear. Mr Haran occupies a ground floor flat looking out on an inner courtyard. The front of the block is constructed in red brick. The rear portions are painted white. We were told that this is not render on brickwork, but rather a concrete structure which is starting to fail, causing dampness within some of the flats. It is apparent that in the future, significant major works may be required to address this defect.

15. Mr Haran derives his title from a lease dated 24 March 1981 which grants a term of 99 years from 29 September 1974 (p.146). On 22 July 2008, the lease was extended for a term of 90 years at a peppercorn rent (p.15). On 22 August 2008, Mr Haran acquired the leasehold interest.

16. On 27 January 2015, the Respondent RTM acquired the right to manage Brixton Hill Court. We were told that 60 of the lessees are members of the RTM Company. Mr Haran is a member.

17. On 20 July 2016, a First-tier Tribunal ("FTT") issued decisions in LON/00AY/LSC/2016/0417 & LON/00AY/LSC/2016/0419 (p.445). On 15 January 2015, the RTM had entered into a management agreement with Warwick. This was an appointment for a term of two years with a six-month notice period. The FTT held that this was a Qualifying Long Term Agreement ("QLTA"). As the RTM had failed to comply with the statutory duty to consult, the FTT held that the contribution of the two tenants, Mr Haran and Mr Bhattacharyya (Flat 105), was limited to £100 per annum. The management fees were capped for the period 1 April 2015 to 31 March 2017. We were told that an appeal was contemplated, but was later abandoned. No application was made for dispensation pursuant to Section 20ZA of the Act.

18. On 25 August 2016 (at p.401), proceedings in the Lambeth County Court (Claim No.C40YJ432) were compromised upon Mr Haran agreeing to pay £3,073.78.

19. The relevant demands are:

(i) 28 April 2016: Demand for the first six-monthly interim service charge of £1,139.95 for 2016/7 (at p.195-9);

(ii) 29 September 2016: Demand for the second six-monthly interim service charge of £1,139.95 for 2016/7 at p.200).

(iii) 20 March 2017: Demand for the first six-monthly interim service charge of £1,585.46for 2017/8 (at p.201);

20. Several further demands were made including those dated 10 November 2016 (at p.202-3); 24 November 2016 (p.204-5); 20 July 2017 (p.206-7); and a "final reminder notice" on 3 August 2017 (p.208). Warwick then put the matter into the hands of Property Debt Collection Limited (PDC) who wrote further letters on 22 August 2017 (p.209-10); and 4 September 2017 (p.211). On 8 September 2017, PDC sent a pre-action letter (at p.212).

21. It is common ground that the relevant service charge demands have been accompanied by the requisite Summary of Rights and Obligation. A Statement of Account, dated 27 September 2017, is at p.53.

22. The Tribunal has also been provided with Service Charge Accounts for: (i) 2015/6 (at p.178-185); (ii) 2016/7 (at p.186-90); (iii) 2017/8 (provided at hearing). We have also been provided with annual budgets for 2016/7 (at p.191-2) and 2017/8 (at p.193-4).

Issue 1: Management Fees

23. The RTM claims management fees of £239.95 (2015/6); £239.95 (2016/7) and £205.96 (2017/8). The total block management charges were £30,888 (2015/6); £30,888 (2016/7) and £26,512.20 (2017/8). The RTM has made a refund as a result of the FTT decision, dated 20 July 2016 (see [17] above) and has capped Mr Haran's management fees at £100 per annum for the period 1 April 2015 to 31 March 2017.

24. Mr Cox stated that the RTM had agreed a new management agreement with Warwick when the initial agreement had expired on 26 January 2017 and that this was not a QLTA. However, the RTM had not pleaded this as part of their case. Neither were they able to produce a copy of the current agreement to satisfy the Tribunal that this was not a QLTA.

25. Against this background, Mr Haran agreed to abandon his claim for any reduction of the management fees paid for the period 27 January to 31 March 2015, whilst the RTM agreed to limit the charge payable by Mr Haran to £100 per annum for the period 1 April 2017 to 13 September 2018. This concession only applies to Mr Haran for this specified period. If any other tenant wishes to raise the point, it would be open to the RTM to seek to establish that the current management agreement is not a QLTA.

Issue 2: Ground Maintenance

26. Mr Haran challenges the following service charges for ground maintenance: £47.62 (2015/6); £68.78 (2016/7); and £86.42 (2017/8). The total costs for the block were: £6,130 (£2015/6); £9,432, including an item for additional planting of £2,367 (2016/7) and estimated at £11,125 (2017/8).

27. Mr Haran raises a number of objections. First, he complains of the manner in which the expenditure has increased over the past four years since Brixton Hill Court has been managed by the RTM. In 2014/5, the expenditure was £3,136 (at p.180). In 2015/6, the expenditure was £6,130 (including £1,965 for tree cutting). In 2016/7, this increased to £9,432 (p.187). Whilst in 2017/8, the budgeted expenditure had been £11,125 (p.193), the accounts for 2017/8 showed the actual expenditure to be £16,249. Expenditure had increased by five-fold.

28. Mr Haran also took exception to a number of invoices:

(i) There had been a double payment of £600 (see p.346). However, he accepted Mr Cox's explanation that there had been a counter-entry.

(ii) Two works orders for Italian Cypresses (at p.359 and 367).

(iii) He suggested that white stone gravel was not a proper item of garden expenditure (p.131).

(iv) A bill of £360 for a six-hour visit by United Property Maintenance Ltd (p.129. This works out at £50 per hour + VAT.

(v) He questioned why additional soil was required at an expense of £607.99 (p.372).

(vi) The purchase of garden furniture at a cost of £1,855 (p.392). Mr Haran suggested that the furniture had originally been provided by individual tenants and was not a service charge item. In a letter, dated 2 October 2017 (p.336), Mr Cox explained why the RTM considered it appropriate to replace the existing garden furniture. Some of it needed to be replaced on health and safety grounds.

29. Mr Haran also complained about the composition of a Gardening Committee. A Garden Contractor had been present. There were also two tenants who were assured tenants, rather than lessees. The Tribunal can see no objection to the RTM establishing such a Gardening Committee provided that any expenditure incurred is both payable pursuant to the terms of the lease and is reasonable.

30. The substance of Mr Haran's argument was that his lease only permitted the RTM "to retain the gardens in their existing state". It did not permit the RTM to carry out significant improvements to enhance the quality of these communal facilities. Mr Haran and Ms Loewenstein describe the work as including a wild flower meadow; a raised herb bed; lavender at the front of the block, roses against the wall; climbers up the colonnade; a new flower bed in the lawn; decorative pebbles; new trees; potted plants in the foyers; and compost bins.

31. The Tribunal cannot accept Mr Haran's argument. By clause 3(ii)(b), the Lessor covenants to "tend", "tidy" and "generally maintain" the gardens. However, Schedule 4 specifies the expenses which the Lessor is entitled to recover under the service charge account. This includes "the upkeep of the gardens used at Brixton Hill Court". We are satisfied that this gives the landlord a margin of discretion as to the standard to which the gardens are to be maintained. It is probable that the RTM was established because the tenants were dissatisfied with the manner in which the landlord was maintaining the block. A decision to plant trees, create new flower beds and provide garden furniture fall within the discretion of the RTM. The garden furniture was to be available for use by all tenants. It is irrelevant that the old and dilapidated garden furniture may have been provided by individual tenants. Any expenditure must be reasonable. The Tribunal should have regard to the fact that the block is being managed by a tenant-controlled RTM, which gives the tenants greater scope to decide how much they wish to spend on their gardens. Even at the current level of expenditure of £16,249, Mr Haran's contribution is £126.23. This is less that £3 per week. This cannot be considered to be unreasonable.

General Minor Repairs

32. Mr Haran challenges the followings service charges for general minor repairs: £92.17 (2015/6); £315.03 (2016/7); and £194.21 (2017/8). The total costs for the block were: £11,865 (£2015/6); £40,554 (2016/7) and £25,000 (2017/8).

Issue 3: General Minor Repairs – Dampness within Flats

33. There are a number of invoices at R26-28 and P32-70. Mr Haran computed that a total of £53,656 had been expended to abate problems of dampness within individual flats. The scope of the works which have been executed are illustrated in the description of the works to R26-28. The cost of the works to this (unspecified) flat were £3,409. This included the provision of dry-lining.

34. Mr Cox explained that Warwick had refunded the sum of £12,500 to the RTM in respect of some of these works (see p.375). This was a goodwill gesture as the RTM had contended that Warwick had executed works which were necessary, but for which the RTM had not given them authority. This sum has been credited to the service charge account, and is a payment which Mr Haran should welcome. The issue for this Tribunal is whether the works which were executed, fell within the landlord's covenant to repair or were the liability of the individual lessee.

35. Mr Cox stated that the works were necessary because the fascia of the building is failing. This relates to the structural concrete material used

at the rear of the block which is painted white. This is causing dampness within the flats. Mr Wragge put the RTM's case in two ways:

(i) The damp within the flats is due to disrepair to the structure for which the landlord is liable. The disrepair is causing dampness. Works to abate the dampness are therefore within the scope of the landlord's covenant to repair.

(ii) Mr Cox accepted that the current work within the flats is only sticking plaster. The drylining installed will hold back the damp but will not address the cause of the problem. The works required to the concrete structure have yet to be identified. The cost is likely to be substantial. These major works would fall within the landlord's covenant. If the current works within flats do not, these have been executed to mitigate the landlord's failure to keep the structure in a proper state of repair. The tenants affected by the dampness seem to accept that this is the appropriate short-term remedy.

36. Mr Haran referred us to [A3283] of Hill and Redman. Had these works been necessary to abate condensation, namely the interaction between the moisture produced within a flat, and the balance of heating, insulation and ventilation, there would have been an argument that these works were the responsibility of the individual lessee. However, the Tribunal accepts Mr Cox's evidence that the problem is due to defects to the structure which is permitting water to penetrate certain flats. We accept the RTM's case that the works are the responsibility of the landlord under either of the formulations specified above.

Issue 4: General Minor Repairs - Common Parts

37. The RTM has decided to smarten up the common parts by putting up a number of pictures. Mr Haran has computed that a total of £4,789.96, of which £2,658.04 relates to photos and drawings. He complains that these sums are not chargeable to the service charge. The obligation is to maintain the common parts; these are improvements. Hr Haran referred us to a number of invoices at R13 to R21. This includes £2,131.92 for "Art Deco interior concepts" (R20); £66.30 for engraved brass images of Brixton in the 1930s (R19); £492 to hang architectural prints (R15); and £829 to mount and frame three drawings (R13).

38. Mr Haran's argument is similar to that on the garden's maintenance. The lease only permits the landlord to maintain the common parts in their current condition. This extend to decorating the common parts, but not to smarten it up with prints and brass images consistent with the Art Deco features of the block.

39. Again, the Tribunal cannot accept this argument. By Clause 3(i), the landlord covenants to "maintain, redecorate, renew, amend, clean and

repair" the "Retained Property" which includes the common passageways. This language is replicated in paragraph 1 of the Fourth Schedule. This gives the landlord a discretion as to the standard to which the common passageways are to be maintained. This includes the modest expenditure on hanging pictures which is to be divided between 144 lessees. This is payable and cannot be considered to be unreasonable.

Issue 5: Caretake Utilities and Telephone

40. In 2016/7, the RTM charged £3,623 for caretaker utilities and telephone of which Mr Haran's share was £28.14. Mr Haran suggested the RTM paid £530 twice for the caretaker's mobile tariff (see p.383 and 384). Mr Cox stated that these invoices related to two separate periods and we accept his evidence.

Issue 6: Legal and Professional Fees

41. In 2016/7, the RTM charged legal and professional fees of £3,272 of which Mr Haran's share was £25.41. Mr Wragge accepted that this related to the establishment of the RTM. This should rather be charged to the RTM members, of which Mr Haran is one, rather than the service charge account.

42. In 2017/8, the RTM charged legal and professional fees of £3,000 of which Mr Haran's share was £23.30. This relates to a dispute between the RTM and the freeholder as to the extent of the appurtenant property which is subject to the Right to Manage (see p.218a). Again, Mr Wragge accepted that this related to the establishment of the RTM and should rather be charged to the RTM members. Mr Haran will now be charged a larger proportion of these two items as there are a smaller number of RTM members than there are lessees.

43. In 2017/8, the RTM charged legal and professional fees of £780. This related to legal advice which the RTM sought in respect of a dispute with Mr Haran (see p.395-7). A dispute arose because Mr Haran contended that the placing of two benches on the common parts onto which his flat looked constituted a nuisance. He also disputed that these items are chargeable to the service charge account. We are satisfied that the RTM was entitled to take legal advice and that this is a service charge item. Mr Haran is only going to be required to pay 0.77683% of this amount.

Issue 7: Sundries

44. In 2015/6, the RTM charged £280 for postage and other charges relating to the RTM AGM; Mr Haran's share was £2.23. Mr Wragge

conceded that this was not a service charge item and should be charged to the RTM members.

45. In 2017/8, the RTM charged £1,500 for sundries of which Mr Haran's share was £11.65. Mr Cox explained that this related to costs relating to the management of the block. This was accepted by Mr Haran.

46. Mr Haran suggested that there was a double payment in respect of access fobs (se R28). Mr Haran accepted Mr Cox's assurance that there was no double payment.

Issue 8: Administration Charges

47. The RTM claim administration charges of (i) £90 for a process fee, dated 3 August 2017 (at p.442); (ii) £180 for the preparation and processing of an arrear's referral on 21 August 2017 (at p.441); and (iii) £180 for a fee levied by PDC on 22 August 2017 (at p.209).

48. The RTM has paid Warwick first two sums of £90 and £180. Warwick sent Mr Haran a number of reminder letters (see [20] above). On 20 July 2017 (at p.206), Warwick warned Mr Haran that an administration charge of £90 would be levied if the arrears were not cleared within 14 days. On 3 August 2017 (at p.208), in their Final Reminder Notice, Warwick warned Mr Haran that a further administration charge of £180 would be levied if the arrears were not cleared within 14 days and it proved necessary for them to refer the matter to PDC. We are satisfied that these administration charges are payable and reasonable.

49. On 22 August 2017 (at p.209), PDC sought to levy a further administration fee of £180. This sum has not been paid by the RTM. We are therefore satisfied that this is not recoverable as an administration charge. However, it may be recoverable in the County Court as part of the RTM's pre-action costs.

Application under s.20C and Refund of Fees

50. At the end of the hearing, both parties applied for a refund of the fees which they have paid in respect of tribunal fees pursuant to Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. Mr Haran has paid an application fee of £100 on his application and the RTM has paid the hearing fee of £200. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal orders Mr Haran to repay the RTM 50% of the fees of £200 that they have paid. The RTM has been largely successful. However, Mr Haran has succeeded on one item, namely the management fees that are payable.

51. In his application form, Mr Haran applied for an order under section 20C of the 1985 Act regarding costs incurred in these proceedings. Having heard the submissions from the parties and taking into account the determinations above, the Tribunal determines that it is not just and equitable in the circumstances for an order to be made. Mr Haran has largely failed in his challenges. There has been a long history of arrears on his service charge account.

The Next Steps

52. The Tribunal has no jurisdiction over the county court costs or interest, this matter should now be returned to the Clerkenwell and Shoreditch County Court.

Judge Robert Latham
18 October 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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

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

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

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

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

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).