



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER (RESIDENTIAL  
PROPERTY)**

**Case Reference** : **CAM/00MD/LSC/2020/0054  
(PAPER REMOTE)**

**Property** : **7 Crossways Windsor Road Slough SL1  
2NE**

**Applicant** : **Dr Fady Zakhariou (1)  
Madonna Ishak (2)**

**Representatives** : **In person**

**Respondent** : **Crossways (Slough) Management  
Company Limited**

**Representative** : **Remus Management Limited**

**Type of Application** : **For the determination of the liability to  
pay and reasonableness of service  
charges (s.27A Landlord and Tenant Act  
1985)**

**Tribunal Members** : **Judge Professor Robert Abbey**

**Date and venue of  
Hearing** : **22 March 2021 by a paper-based  
decision**

**Date of Decision** : **22 March 2021**

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**DECISION**

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## **Decisions of the tribunal**

- (1) The tribunal determines that: -
- (2) The disputed service charges are reasonable and the applicant is liable under the terms of the lease of the property to pay the service charges as demanded other than as are disallowed or are varied by this decision with regard to the following specific items: -

Year ended 2020

- a. Window cleaning; there is no change to the service charges in this regard as the charges are considered reasonable and payable
- b. Internal cleaning; the charge to the applicant is reduced by 25%

Year ended 2021

- a. Window cleaning; there is no change to the service charges in this regard as the charges are considered reasonable and payable
  - b. Internal cleaning; the charge to the applicant is reduced by 25%
  - c. Electricity; there is no change the charges being considered reasonable and payable
  - d. Management fees; there is no change the charges being considered reasonable and payable
  - e. Compensation; there be no order is this regard.
- (3) the tribunal determines that there be an order for the refund of the applicant's application fee in the sum of £100.
  - (4) An order be made under section 20c of the Landlord and Tenant Act 1985 in the terms set out below.

## **The application**

1. The applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charge payable by the respondent in respect of service charges payable for services provided for **7 Crossways Windsor Road Slough SL1 2NE**, (the property) and the liability to pay such service charge.

2. The applicant is the lessee of the property pursuant to a long lease granted in 2017 and made between (1) Bellway Homes Limited (2) the applicant for a term of 125 years from 1 August 2016. The property is within a development of four blocks, A to D. The internal areas of Block C are managed by a housing association and the maintenance of the other three blocks is the responsibility of the resident's management company who have instructed Remus Management Limited (Remus) as the managing agent.
3. The Disputed Charges are in relation to charges for 2020 and estimated charges for 2021 in relation to window cleaning and internal cleaning for both years and electricity charges and management charges for 2021.
4. According to the lease terms, the tenant of the property pays 0.7022% of the estate costs as set out in part 1 of Schedule 11 of the lease and 0.7565 of the block costs as set out in part 2 of Schedule 11. Estate costs covers communal areas across the whole area of the estate while Block costs covers expenditure limited to the particular Block within which the property is located. As well as the disputed service charges set out above the applicant has included in his application a general request for compensation as a result of Remus causing him a lot of anxiety and unnecessary grief by not answering his complaint and forcing him to go to the Tribunal.
5. The relevant legal provisions are set out in the Appendix to this decision. Additionally, rights of appeal are set out below in an annex to this decision

### **The hearing**

6. The tribunal had before it a paper trial bundle of documents prepared by the parties, in accordance with previous directions.
7. This has been a remote hearing on the papers which has been consented to or not objected to by the parties. The form of remote hearing was classified as P (PaperRemote). A face-to-face hearing was not held because it was not practicable given the Covid-19 pandemic (and the need for social distancing) and no one requested the same or it was not practicable and all issues could be determined in a remote hearing on paper. The documents that the Tribunal was referred to are in the electronic bundle described above and supplied by both parties to this dispute.
8. In the context of the Covid 19 pandemic and the social distancing requirements the Tribunal did not consider that an inspection was possible. However, the Tribunal was able to access the detailed and extensive paperwork in the trial bundle that informed their

determination. In these circumstances it would not have been proportionate to make an inspection given the current circumstances and the quite specific issues in dispute.

### **The background and the issues**

9. The property is a flat in a purpose-built block of flats and this is one of 4 blocks of flats at this residential development. In the context of the Covid 19 pandemic and the social distancing requirements the Tribunal did not consider that an inspection was possible. However, the Tribunal was able to access the detailed and extensive paperwork in the trial bundle that informed their determination. In these circumstances it would not have been proportionate to make an inspection given the current circumstances and the quite narrow issues in dispute.
10. The lessee of the flat at the property holds a long lease which requires the management company, to provide services and the lessee to contribute towards their cost by way of a service charge. The lessee must pay a percentage described in his lease for the services provided. The liability for a share of the total service charge cost is expressed in the particulars of the lease under the definition of “the tenant’s proportion”. Service charge costs for the estate as distinct from the block are categorised into parts 1 and 2 of the eleventh schedule.
11. Accordingly, the issues arise for determination are with regard to the charges and issues listed above and will be considered item by item by the Tribunal following the same list. The Tribunal will consider whether the sums claimed for the service charge year are reasonable within section 19 of the Landlord and Tenant Act 1985, (were the services reasonably incurred and were they of a reasonable standard).

### **Decision**

12. The tribunal is required to consider whether the services were reasonably incurred and were they of a reasonable standard. To do this the Tribunal will consider each item in dispute, taking into account the written representations made on behalf of the parties within the hearing bundle.

#### Window cleaning 2020 and 2021

13. The applicant says he lives in a first floor terraced flat and consequently his windows are not cleaned by the management company and he cleans the windows himself. In reply the respondent says that window cleaning is covered by clause 1.7 of part 2 of Schedule 11 which provides that the management company is to “*clean the internal and external surfaces of the windows of the internal common parts of the block and the exterior surfaces of windows at the Block save where there is a*

*balcony*". It would appear from the respondent's evidence that Flat 7 Crossways has a terrace and therefore the windows are not cleaned. The respondent stated that "All flats that have a balcony or are on the terrace are required to clean their own windows as there are no access issues for these tenants. According to the terms of the lease the leaseholder is required to pay a proportion of the window cleaning costs for the whole building including the communal windows.". It would therefore appear that if the windows of the property are not cleaned it is because the lease says that the management company are under no legal obligation to clean them. Furthermore, notwithstanding this lack of window cleaning to the flat there is still an obligation on the tenant to pay window cleaning costs for window cleaning to other parts of the Block.

14. The total window cleaning charges were £7999.40 for 2020 and budgeted to £7800 for 2021. It appears to the Tribunal that the window cleaning charge is properly made under the leased terms and properly charged at the rates set out in the invoices disclosed to the Tribunal. The Tribunal was not persuaded by the evidence from the applicant and in this regard prefers the evidence from the respondent. There is no persuasive evidence in the trial bundle to support the applicant's claim that windows are not cleaned and therefore the Tribunal confirms the window cleaning charges as demanded by the respondent.

#### Internal Cleaning

15. In regard to internal cleaning the applicant makes the same comments for both years in dispute. Carpets are stained and not cleaned and the car park is not cleaned with birds nesting there and leaving bird droppings on cars. Photographic evidence was provided by the applicant clearly showing marked carpets and dirty car park areas as well as cars badly affected by bird droppings on the bodywork.
16. The respondent says internal cleaning is undertaken on a weekly basis at an annual cost of £16171.20 to February 2020 and then from March 2020 at £16656.36 per annum. The budget figures for the two years are £16000 and £16200. Remus says cleaning includes, one, vacuuming carpets in the common parts, two, mopping tiled floors, three, cleaning glass in doors and, four, cleaning the mirrors in the lifts.
17. The respondent says carpets are vacuumed but not steam cleaned. Remus acknowledges that some small areas of the carpets have staining but they have attempted to spot clean them. Remus also admit that "The car park does have an issue with pigeons nesting in areas" but the directors have not yet instructed Remus to pigeon proof the car park (at a cost of £5000).
18. There would appear to be minor issues with carpet cleaning but clearly there is an issue with pigeons and pigeon mess in the car park. This is

an annoying and aggravating issue that really should be addressed quickly before the problem gets worse. It is not reasonable to allow the problem to continue unaddressed. Therefore, the Tribunal preferred the evidence from the applicant. Bearing in mind this is one element of the four listed by the respondent and to address the issue of reasonableness, the Tribunal considered it appropriate and proportionate if this charge to the applicant be reduced by 25% for both years in dispute.

#### Communal electricity

19. In his application the applicant says that the electricity charge increased from £11500 in 2020 to £14000 in 2021. The applicant asks why did this increase happen and asks for evidence of the amount of the bills involved He also wants to know if other quotes were obtained for this service.
20. The respondent stated that the budget for electricity was £11500 for the year 2020 and was indeed increased to £14000 for 2021. Their explanation was that “The increase in 2020 was based on the actual costs for the previous year”. These costs cover the electricity for common parts both inside and out including lifts, lighting and fire alarm systems. No alternative quotes were provided. However, the utility company used was Scottish Power, a mainstream provider of electricity and as the respondent is not under any obligation to obtain the cheapest quote it would appear to be the case that this provider is appropriate.
21. The total charge in this regard in the accounts is at most £16000. This a total annual charge to the applicant of £98.31 at 0.7022%. In view of the minor amount charged to the applicant and having seen the itemised electricity bills from the utility company the Tribunal considers this charge to be payable and reasonable.

#### Management charges

22. Dealing first with the annual management charge, the applicant says that the management fees increased from £39933 to £41310 for no reason. Remus supplied full details of what the management fee charged covered. The figures disclosed that the amount of £225 plus vat per flat was the amount involved. So the management fee was £225 plus vat for this flat.
23. The Tribunal, whilst observing that the respondent had been slow in dealing with the enquiries made by the applicant, was of the view that this charge was well within the range of management fees seen by it in cases of this kind and if anything was towards the bottom end of such

charges. Therefore, the Tribunal determines that these annual management charges are reasonable and payable.

### Compensation

24. As well as the disputed service charges set out above the applicant has included in his application a general request for compensation as a result of Remus causing him a lot of anxiety and unnecessary grief by not answering his complaint and forcing him to go to the Tribunal. The Tribunal has some sympathy for the applicant as it is clear from the email correspondence disclosed that there were issues of communication with the respondent. The respondent confirmed that the applicant submitted an email on the 27 August 2020 with ten queries which they did not reply or respond to until 4 November. They went on to say “Whilst the delay in responding to the leaseholder is not ideal we gave a full and explained reply to his queries”.
25. The Tribunal does not have power to award compensatory sums. However, Rule 13 does allow for the refund of Tribunal fees. Rule 13(2) states that

*“The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.”*

26. There is no requirement of unreasonableness in this regard. Therefore, in this case the Tribunal considers it appropriate that the Respondent refund the Applicant’s application fee payment of £100.
27. In the circumstances the tribunal determines that there be an order for the refund of the application fee in the sum of £100 pursuant to Rule 13(2).
28. For all the reasons set out above the Tribunal is of the view that the service charges for the various items listed above are reasonable and payable by the applicant other than varied by this decision in relation to cleaning.

### **Application for a S.20C order**

29. It is the Tribunal’s view that it is both just and equitable to make an order pursuant to S. 20C of the Landlord and Tenant Act 1985. Having considered the conduct of the parties, their written submissions and taking into account the determination set out in this decision the Tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act that 75% of the costs incurred by the respondent in connection with these

proceedings should not be taken into account in determining the amount of any service charge payable by the tenant.

30. With regard to the decision relating to s.20C, the Tribunal relied upon the guidance made by HHJ Rich in *Tenants of Langford Court v Doren Limited* (LRX/37/2000) in that it was decided that the decision to be taken was to be just and equitable in all the circumstances. The Tribunal thought it would not be just to allow the right to claim all the costs as part of the service charge. Bearing in mind the determinations made above the Tribunal thought that there had been communication issues and that therefore a 75%/25% division in the order was appropriate. The s.20C decision in this dispute gave the Tribunal an opportunity to ensure fair treatment as between landlord and tenant in circumstances where costs have been incurred by the landlord and that it would be just that the tenant should not have to pay all of them by way of the service charge.
31. In *Re Scmla (Freehold) Limited* [2014] UKUT 0058 Deputy Chamber President Martin Rodger QC stated that “*An order under section 20C interferes with the parties' contractual rights and obligations, and for that reason ought not to be made lightly or as a matter of course, but only after considering the consequences of the order for all of those affected by it and all other relevant circumstances...*” Accordingly the Tribunal was indeed mindful of the consequences of any order it might make under s.20c and as a result the percentage Order was made.
32. As was clarified in *The Church Commissioners v Derdabi* LRX/29/2011 the Tribunal took a robust, broad-brush approach based upon the material before it. The Tribunal took into account all relevant factors and circumstances including the complexity of the matters in issue and all the evidence presented and timings.
33. The Tribunal took careful note of the respondents’ submissions but in the end felt that in the light of the above comments it would be just and equitable to proceed as set out above. For all these reasons the Tribunal has made this decision in regard to the 20C application

**Name:** Judge Professor Robert  
Abbey

**Date:** 22 March 2021



## **Appendix of relevant legislation and rules**

### **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.

## **ANNEX - RIGHTS OF APPEAL**

1. 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.
2. 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.
3. 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.
4. 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.