



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

**Case Reference** : **LON/00BF/LSC/2021/0243**

**Property** : **Flats 1-6 46 St James Rd, Sutton, SM1 2TN**

**Applicants** : **Residents of 46 St James Rd**

**Respondents** : **Assethold Ltd/ Eagestates**

**Type of Application** : **Application for a determination  
under s 27A Landlord and Tenant Act 1985**

**Tribunal Members** : **Judge Shepherd  
Rachel Kershaw BSc**

**Date of decision** : **4th November 2022**

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**DETERMINATION**

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1. In this case the Applicants, Hugh and Patricia Shaw, Andrew and Siobhan Masterson, John Foxcroft, Zali Sharif, Stuart Cadman and Alexander Lawrie (“The Applicants”) seek a determination pursuant to section 27A of the Landlord and Tenant Act 1985. The applicants are all leaseholders at Flats 1 to 6, 46 Saint James Road, Sutton, Surrey SM1 2TN (“The premises”). The Respondents are Assethold ( Freeholder) and Eagestates ( Managing agent). The Applicants seek a determination in relation to the years 2018 to 2021. They were represented by Andrew Masterson and John Foxcroft. Both presented themselves admirably well to the Tribunal and Mr Masterson prepared the bundle which was impeccable notwithstanding the fact that he has no apparent legal background. The Respondents were represented by Mr Granby of Counsel. Mr Gurvitz the director of Eagestates failed to attend the hearing and therefore the Applicants and the Tribunal were unable to cross examine him. In any event the hearing consisted largely of submissions.
2. The Applicants notified the Tribunal that they had taken over management of the premises under the Right to Manage legislation on the 28th of December 2021. They made it clear that the reason for them taking this course was what they perceived to be poor management on the part of Eagestates. In summary they considered that they were getting a poorer service than under the previous regime but paying more money for it.
3. The parties helpfully prepared a Scott Schedule detailing all of the issues between them.
4. It is intended to take each item in turn looking at the submissions made by each party and then making the determination in short order.

### ***Insurance***

5. The Applicants challenged the increase in the insurance costs since the Respondents took over management. They said that there had been a major increase year on year. They were able to provide a comparator from a firm called Bricks and Mortar who had quoted for the insurance. Mr Granby said that the Respondents had obtained a recent valuation in relation to the rebuild value of the premises and accordingly had increased the insurance cover. He acknowledged that the Bricks and Mortar premiums were lower but he said that

there was a lower level of cover and some of the details in relation to the premises were inaccurate. He also said that the Respondents had employed a broker in good faith with a broker's fee of £329. He also said it was essentially a matter for the landlord as to who they insure with – there is no compulsion on the landlord to go with the lowest insurer.

6. The Tribunal considers that the insurance costs and brokers fee of £1762.22 is reasonable and payable. It is accepted that there are differences in the scope of the insurance projected by Bricks and Mortar and the landlord's chosen insurer. It is also accepted that there is no compulsion on the landlord to adopt the lowest value insurance. This deals with the insurance for 2018-2019. In relation to the insurance for 2019-2020 this had increased to £4177.76 which is a substantial increase. Mr Granby sought to explain the increase but the Tribunal remained concerned about the size of the increase. Without Mr Gurvitz being present the Tribunal were unable to investigate this issue further. The Applicants attended the hearing and therefore the Tribunal intends to give them the benefit of the doubt on this issue and allow the sum of £2500 which is considered to be reasonable. Similarly in relation to the estimates for 2020 - 2021 these appear too high and the Tribunal allows £2500 instead.

### ***Drains***

7. There were a large number of invoices in relation to drain works at the premises. The Applicants said that they had not being made aware of any issues in relation to the drains during their occupation of the premises and no work had been carried out prior to Eagestates being involved. There were two initial invoices dated the 17th of May 2019 and the 23rd of May 2019 in which the drain company arranged the clearance of tree roots from the drains. A CCTV survey carried out on the 23rd of May showed that the drains were clear. It is not clear therefore why any further costs were incurred for the drains and we were unable to investigate this matter further with Mr Gurvitz because he was not in attendance at the hearing. The tribunal disallows all of the drain costs over the three years save for £402 pounds which related to the initial clearance of the tree roots.

### ***Common parts cleaning***

8. The Applicants were unhappy about the standard of cleaning and the amount of time that the cleaners spent at the premises. The cleaning cost in 2018 - 2019 was £928.20. This appears reasonable to the Tribunal and this sum is allowed. In 2019 -2020 the cost had increased fairly substantially to £1448.40. If the Applicants are right and the service being provided was questionable it is not

reasonable to have such a substantial increase and the Tribunal will allow £1000. Similarly, the estimated costs in 2000 -2021 are regarded as too high and the Tribunal will allow £1200.

### ***Common parts gardening***

9. The Applicants had similar complaints about the quality of the gardening. There wasn't a large area to be looked after. The charge in 2018 -2019 was £720 pounds. This appears to be reasonable notwithstanding the complaints about the service and it is allowed. In 2019 - 2020 the charge increased to £1152 without any real explanation and without Mr Gurvitz being present to explain this to the Tribunal. The Tribunal will allow £900 for this year and £1000 pounds for the estimated charge in the following year.

### ***Window cleaning***

10. The window cleaning charge for 2018 -2019 was £312. This appears to be reasonable and is allowed. The charge then increased in 2019 -2020 to £780. There was no real explanation as to this level of increase except that it was said that there was an extra clean. The tribunal will allow £400. In 2000 -2021 the estimated charge for window cleaning was £800. There is no real basis for the size of this estimate and the Tribunal allows an estimate of £500.

### ***Fire health and safety***

11. The charge for 2018 -2019 was £426 which appears reasonable and is allowed. In 2019 - 2020 a further investigation was carried out at a cost of £390. This sum is disallowed as there was no real need to carry out a further inspection after such a short period in a building which does not really justify search regular inspections. In 2000 -2021 there is an estimate for a Fire Health and Safety risk assessment of £400. This appears reasonable and is allowed

### ***Roof-works***

12. The roof repairs were carried out following the fire safety assessment report and the sum of £930 for 2018 - 2019 appears reasonable and is allowed.

### ***Second floor electrical fault finding and repair (2018-2019)***

13. The Applicants said that they were not aware of any electrical faults or repairs. However, it does appear that the Respondents were invoiced for work and the cost is not unreasonable at £432.

***Fire health and safety equipment installation replacement (2018-2019)***

14. This sum of £642 appears reasonable and is allowed.

***Electrical fault in landing (2018-2019)***

15. This is allowed in full.

***Sensor /Timer – issues ( 2018-2019)***

16. This is allowed in full.

***Replace controller (2018-2019)***

17. This is allowed in full.

***Management Fee***

18. The management fee for 2018-2019 was £1872 or £260 per flat which appears reasonable notwithstanding the Applicants' complaints about the service. Similarly, the charge in 2019-2020 of £1886.40 which is reasonable and is allowed. Also, the estimate for the following year of £1908 is allowed.

***Surveyors for insurance (2019-2020)***

19. This appears reasonable and is allowed in full.

***Additional insurance premium (2019-2020)***

20. This sum is allowed in full.

***Paving repair (2019-2020)***

21. The sum of £858 although on the high side is allowed in full.

***Hazard works- electrical cupboard etc (2019-2020)***

22. These works were required after the fire health and safety survey and the cost of £540 is reasonable and is allowed.

***Driveway repair (2019-2020)***

23. The works cost £900. Again this is on the high side but the works were sufficiently fiddly for such a cost to be reasonable.

***Surveyors for planned PPM (2019-2020)***

24. The preparation of a PPM is a prudent course to take and the Applicants will benefit from the report so the sum of £690 is allowed.

***Fire health and safety assessment (2019-2020)***

25. This sum of £390 is disallowed as an assessment had already been carried out the previous year.

***Rainwater goods, cleaning repair of gutter (2019-2020)***

26. This sum of £942 is reasonable and is allowed in full.

***Investigate lock (2019-2020)***

27. This is allowed in full.

***NCEIC report failed- £258 (2019-2020)***

28. This sum is allowed as it is prudent to carry out these inspections albeit that this one failed.

***Remaining estimates for 2020-2021***

29. The estimates for Fire, health and safety (£300), Fire health and safety risk (£400), Gutter cleaning (£150), smoke and fire alarm testing (£250) are all reasonable and allowed. The estimate for carpet cleaning is disallowed as the carpet was cleaned the year before. The management fee and repair fund estimate are reasonable.

30. In relation to the separate invoices for major works Mr Granby told the Tribunal that none of these works had taken place and therefore no charges were being made.

31. The administration charges on late payment challenged by the Applicants were not part of this application however they are able to bring another challenge in relation to them.

***Section 20C Landlord and Tenant Act 1985***

32. The Tribunal will exercise its discretion and prevent the Respondents from recovering their costs from the service charges. The Tribunal were not impressed that Mr Gurvitz did not attend the hearing. We were unable to investigate several of the issues before us despite Mr Granby's assistance. In contrast the Applicants handled themselves in the Tribunal commendably and as already stated we were grateful for the bundle which was impeccable. Whilst s 20C is partly about outcomes (the Respondents have succeeded on a number of the challenges) it is also about process. The challenges brought by the Applicants were all arguable and they were entitled to come to the Tribunal to put forward their case.

**Judge Shepherd**

**5<sup>th</sup> November 2022**

**ANNEX - RIGHTS OF APPEAL** Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
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 state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers