9267

FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00AM/LSC/2013/0304**
Property	:	**Flat 2 Beaumont Court Upper Clapton Road London E5 8BG**
Applicant	:	**Beaumont Court Tenants Limited**
Representative	:	**Mr J Naylor (solicitor) Crabtree Law LLP**
Respondent	:	**Mrs Rita Goldberg**
Representative	:	**n/a**
Type of Application	:	**For the determination of the reasonableness of and the liability to pay a service charge**
Tribunal Members	:	**Miss J Guest (solicitor) Mr A Ring Mrs J Davies FRICS**
Date and venue of Hearing	:	**27/08/2013 10 Alfred Place, London WC1E 7LR**
Date of Decision	:	**29/09/2013**

DECISION

Decisions of the tribunal

(1) The tribunal determines that service charges estimated in the sum of £4, 126.00 in respect of the service charge year 2012/13 and the administration charge levied on 20/12/2012 are reasonable and payable subject to paragraph (2) below.

(2) The tribunal notes that a surplus in the sum of £598.17 in respect of the service charge year 2011/12 was not credited to the Respondent's account until 26/04/2013. The lease stipulates that this surplus should have been credited in respect of the service charge year 2012/13.

(3) The tribunal determines that the Respondent shall pay the Applicant £150.00 within 28 days of this decision in respect of the reimbursement of the hearing fee paid by the Applicant.

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

The application

1. The Applicant seeks a determination 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 by the Respondent in respect of the service charge year 2012/13.

2. Proceedings were originally issued in the Northampton County Court under claim no. 3YK07241 on 06/03/2013 and subsequently transferred to the Clerkenwell and Shoreditch County Court. No Defence was filed or served by the Respondent but, on 20/03/2013, she wrote to the Court requesting that the matter be referred to this tribunal. The matter was duly referred by order of District Judge Manners on 19/04/2013.

3. The tribunal first heard the application at a pre-trial review hearing *("PTR")* on 28/05/2013. The Applicant was represented at the hearing by their solicitor, Ms S Ferguson. The Respondent did not attend the PTR and she failed to comply with any of the directions ordered.

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

The hearing

5. The Applicant was represented by a solicitor, Mr J Naylor. The Respondent again did not attend.

6. Prior to the hearing, the tribunal considered a bundle of relevant documents prepared by the Applicant's solicitors. This bundle included various letters that the Respondent had sent to the tribunal. In addition to the bundle, the tribunal also considered the contents of the County Court file, which included the Respondent's correspondence with the Court dated 20/03/2013.

7. The bundle included a witness statement for Edward Crossfield dated 13/08/2013. Mr Crossfield is employed as a property manager by Crabtree Property Management LLP *("Crabtree")*. The Applicant's solicitor confirmed that the witness statement contained two errors. Firstly, paragraph 9 of the statement incorrectly referred to the percentage in clause 7 of the lease as 5.55% whereas clause 7 states that this percentage is 2.88%. Clause 7 is penalty clause for late payment that has not been invoked by the Applicant in any event. Secondly, paragraph 18 wrongly referred to the Respondent's statements (actually her correspondence) as being in Tab 13 of the bundle whereas it was under Tab 11.

8. The tribunal was informed by the Applicant's solicitor that Crabtree took over the management of Beaumont Court shortly before March 2012. Mr Crossfield did not attend the hearing as he was on holiday. The Applicant's solicitor was only informed of this on 23/08/2013. Apparently, there was no-one at Crabtree who could attend the hearing, despite the fact that the application had been set down for hearing at the PTR back in May 2013. The Applicant's solicitor apologised to the tribunal for the absence of his client's witness but he was able to assist the tribunal by obtaining further instructions and additional information from Crabtree's senior property manager, Mr J Osborne, over the telephone during a short adjournment of the proceedings.

The background

9. The property which is the subject of this application is a self-contained residential flat located in a 5 storey purpose-built block containing a total of 57 flats with seven commercial units on the ground floor. There are 3 entrances at ground floor level leading to the flats with 2 communal staircases and lift access. There is a landscaped area to the rear, a basement area containing the communal boiler that provided heating and hot water (prior to its disconnection some years ago), a bin store and a driveway leading to a small car park.

10. Neither party requested an inspection and the tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

11. The Respondent holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge. The specific provisions of the lease and will be referred to below, where appropriate.

The issues

12. The service charges in respect of the year 2012/13 amounted to £4,126.00 and, in addition, an additional management fee of £360.00 was levied on 20/12/2012.

13. As a result of the referral from the County Court, the tribunal was required to consider whether the service charges of £4,126.00 and administration charge of £360.00 were payable and/or reasonable.

14. In her correspondence, the Respondent made some general remarks regarding such things as an increase in the charges and she also referred to the disconnection of the communal heating and hot water supply (the service charges do not include any charge for heating/hot water). Other than such general comments, the Respondent did not take issue with any specific items of expenditure.

15. Having considered the documents and heard submissions made by the Applicant's solicitor, the tribunal made determinations on the service charges of £4,126.00 for the year 2012/13 and also on the administration charge of £360.00. The tribunal's determinations are set out below.

A. Reserve fund

16. The sum of £1,080.00 has been charged on 25/03/2012 and again on 29/09/2012 in respect of the Respondent's contribution in advance to the reserve fund. The total reserve fund estimated for the year amounts to £75,000.

17. The Applicant's solicitor informed the tribunal that the previous managing agent had collected a reserve fund in order to redecorate the exterior of the building that was in a poor state. The sum of £185,000 was spent on these major works and the works were completed about 3-4 months ago. This expenditure amounted to 75% of the reserve fund that had been collected. The tribunal was informed that the reserve of £75,000 was being collected in order to fund further major works to bring the internal communal areas up to standard.

18. The tribunal was told that it was approximately 10 years or more since the internal communal areas were last decorated.

The tribunal's decision and reasons

19. Clause 8(i) obliges the Respondent to pay *"half yearly in advance on the twenty fifth day of March and the twenty ninth day of September in each year of the term 2.88 per centum of the reasonable estimated Total Service Cost for that year"*.

20. Clause 8(ii) states that the 'Total Service Cost' *"means the aggregate amount in each year running from the twenty six of March reasonably expended by the Company in the performance of its obligations under the New Leases and the amount of any reserve reasonably required in respect of its liability for maintenance and repairs thereunder and without prejudice to the generality of the foregoing shall include administrative costs professional and management fees and the costs of supplying an audited statement of the Total Service Costs to each New Lessee"*.

21. Clause 8(iii) provides that, *"Within four months of the twenty fifth of March in each year of the term the Company shall supply the Lessee with a statement prepared by the Auditors of the Company certifying the Total Service Costs of the preceding year ending on the twenty fifth day of March which statement shall be final and binding on the Company and the Lessee and such adjustment as shall be necessary shall be made to the amount due on the following twenty ninth day of September to equate to the annual subscription for the proceeding year to 2.88% of the actual Total Service Cost"*.

22. The half yearly sums of £1,080.00 demanded in advance in respect of the reserve fund on 25 March and 29 September 2012 were in accordance with the terms of the lease as set out above.

23. The tribunal considered that a provision for a reserve fund was prudent management and the sum of £75,000 represented a reasonable amount given the size and character of the building and the planned works. The tribunal determined that the total sum of £2,160.00 for the service charge year 2012/13 was payable and reasonable.

24. Accordingly, the sum of £2,160.00 was allowed in full.

B. <u>Service charges</u>

25. The sum of £1,008.00 was demanded in advance on 25/03/2012 and again on 29/09/2012. The total sum of £2,016.00 is the amount of service charges demanded on account for the service charge year 2012/13.

26. The tribunal was informed by the Applicant's solicitor that the service charges demanded in advance represented the Respondent's contribution of 2.88% to the total estate expenditure estimated for the year.

27. Each item of estimated expenditure was separately considered by the tribunal and the tribunal's decision on each item is set out below:

Audit and accountancy fees £2,000

28. The tribunal considered the estimated sum to be reasonable and payable in accordance with Clause 8(ii) of the lease (set out above), which provides that the Applicant may, amongst other things, charge for the cost of supplying an audited statement of the Total Service Cost.

29. Accordingly, the amount was allowed in full.

Building insurance £11,000

30. The Applicant's contractual obligation to keep the building insured is set out in Clause 5.

31. Under paragraph 5 to Schedule 5, the Applicant is *"To provide such services as the Lessors consider necessary in order to maintain the Building as a good class block of residential flats"*.

32. Clause 5(2) of the lease stipulates that the Applicant must provide the services set out in Schedule 5 and, therefore, the Applicant is entitled to recover the cost of the services set out under Schedule 5 of the lease. As building insurance is a necessary requirement of maintaining the building, the Applicant is entitled to recover the cost through the service charge. The Tribunal considered the estimated sum to be reasonable.

33. Accordingly, the amount was allowed in full.

Cleaning £13,400

34. Paragraph 1 of Schedule 5 provides that the Applicant must *".. keep the entrance hall staircases and other part of the Building used in common cleaned and properly lighted"*. Paragraph 2 to Schedule 5 requires the Applicant to keep the lift clean. Therefore, the Applicant is entitled to recover the cleaning costs through the service charges. The tribunal considered the estimate sum to be reasonable.

35. Accordingly, the estimated sum was allowed in full.

Communal electricity £2,000

36. Paragraph 1 of Schedule 5 requires the communal parts to be properly lighted. The Applicant is, therefore, entitled to recover the cost of the communal electricity through the service charges. The tribunal considered the estimated sum to be reasonable.

37. Accordingly, the estimated sum was allowed in full.

Company secretarial and statutory requirements £600

38. Clause 8(ii) of the lease entitles the Applicant to charge for its *'administrative costs'*. The tribunal considered the estimated sum to be reasonable.

39. Accordingly, the sum was allowed in full.

Contingency £500

40. The provision for a contingency sum is recoverable under the general 'sweeping up' clause under paragraph 5 to Schedule 5. The tribunal considered the estimate sum to be reasonable.

41. Accordingly, the sum was allowed in full.

Gardening £1,400

42. Clause 8(ii) entitles the Applicant to recover its costs reasonably expended in the performances of its obligations. The Applicant's obligations include an obligation under Clause 5(2)(i) to maintain the grounds. The Applicant is, therefore, entitled to charge for such costs. The tribunal considered the estimate sum to be reasonable.

43. Accordingly, the sum was allowed in full.

44. **Health and safety £1,000**

45. The tribunal was informed by the Applicant's solicitor that a fire safety assessment was undertaken by Crabtree when they took over management of the building since there was an issue regarding the emergency lighting in the communal areas.

46. Such expenditure falls within the 'sweeping up' clause under paragraph 5 to Schedule 5 and, therefore, it is a cost that can be recovered through the service charges. The tribunal considered the estimated sum to be reasonable given the size and character of the building.

47. Accordingly, the sum was allowed in full.

Legal and professional fees £5,000

48. Clause 8(ii) provides that the Applicant can recover sums reasonably expended in relation to professional fees. The Applicant is, therefore, entitled to include such costs as part of the service charges. The tribunal considered the estimated sum to be reasonable.

49. Accordingly, the sum was allowed in full.

Lift maintenance £3,100

50. Paragraph 2 to Schedule 5 states that the Applicant must *".. keep the lift in the Building clean and in proper working order"*. The Applicant is entitled to recover such costs pursuant to the lease and the tribunal considered the estimated sum to be reasonable.

51. Accordingly, the sum was allowed in full.

Managing agents fees £14,100

52. The expenditure on management fees is included in the costs that the Applicant is entitled to recover under Clause 2(ii). The Tribunal noted that Crabtee's estimated fees are lower than those charged by the previous managing agents in the service charge year 2011/12. The tribunal considered that the estimated fees were reasonable.

53. Accordingly, the sum was allowed in full.

Pest control £900

54. Such a service is part of the services included in the general 'sweeping up' clause set out in paragraph 5 to Schedule 5. Therefore, it is a cost that the Applicant is entitled to recover and the tribunal decided that the estimated sum was reasonable.

55. Accordingly, the sum was allowed in full.

Refuse collection and bin hire £5,000

56. This cost is also part of the general service included in the 'sweeping up' clause under paragraph 5 to Schedule 5. Therefore, it is a cost that the Applicant is entitled to recover and the tribunal decided that the estimated sum was reasonable.

57. Accordingly, the sum was allowed in full.

Repairs and maintenance £10,000

58. Clause 5(2) of the lease obliges the Applicant to repair and maintain the building and such costs are recoverable under Clause 2(ii). The Applicant is entitled to recover such costs and the tribunal considered that the estimated sum was reasonable.

59. Accordingly, the sum was allowed in full.

Transaction charge £50

60. The Applicant's solicitor informed the Tribunal that this was a bank charge incurred when Crabtree set up a new client account to handle the service charges when it took over management of the building. Such an administrative costs is recoverable under Clause 2(ii). The Tribunal considered this cost to be reasonable given that it was the actual charge made by the bank.

61. Accordingly, the sum was allowed in full.

Total estimated service charge costs

62. The estimated expenditure for the service charge year 2012/13 amounted to £70,050. A credit was made in this year for bank interest in the sum of £50.00 leaving a balance of £70,000. The Respondent is obliged under the lease to pay a contribution of 2.88%, i.e. £2,016 (which was payable in two half yearly instalments of £1,080).

C. Additional management fee

63. The Applicant's solicitor informed the Tribunal that Crabtree's credit control department had charged the Applicant the sum of £360.00 including VAT in respect of fixed costs incurred under the management agreement to recover the unpaid service charges. The Tribunal was told that the Respondent has not paid anything at all towards the costs for the service charge year in question and that there have been similar problems of non-payment in other years. The fixed fee charge relates to the time spent considering the action to be taken, sending a total of 3 letters to the Respondent concerning the arrears and then instructing solicitors to pursue the debt. The Applicant's solicitor informed the Tribunal that the current county court action could result in forfeiture proceedings at a later date.

Tribunal's decision and reasons

64. Clause 3(15) entitles the Applicant to recover all expenses incurred by or incidental to the service of a notice under section 146 of the Law of Property Act 1925. Clause 8(ii) also entitles the Applicant to recover costs reasonably expended in relation to administrative costs. Therefore, the administration charge is recoverable under these terms of the lease. The Tribunal considered the sum charged to be reasonable.

65. Accordingly, the sum was allowed in full.

D. Surplus

66. A surplus of £598.17 in respect of the service charge year 2011/12 was not credited to the Respondent's service charge account until 29/04/2013 shortly after the county court proceedings in respect of the service charge year 2012/13 were issued.

67. The sum of £598.17 should have been credited to the account by 29 September 2012 in order to comply with the balancing provisions of the lease set out at Clause 8(iii).

E. Reimbursement of hearing fee of £150

68. At the end of the hearing, the Applicant's solicitor made an application for a refund of the hearing fee of £150.00 paid by the Applicant in respect of the application.

69. It was the Respondent herself who requested that the matter be transferred to the tribunal thereby resulting in the fee being incurred.

70. The Respondent failed to comply with directions and she took no part in the proceedings. The Respondent has not paid anything at all towards the service charges. Whilst the tribunal had regard to the fact that the Respondent is unable to work due to ill health, she is nevertheless contractually obliged to pay service charges under the terms of the lease. Her personal difficulties do not alter this obligation.

71. Given that the tribunal found that all charges were payable and reasonable, the tribunal orders the Respondent to refund the hearing fee of £150.00 within 28 days of the date of this decision.

The next steps

72. The tribunal made determinations in respect of the sum of £4,486.00 as that was the sum transferred by the County Court for the tribunal's consideration.

73. When the matter is remitted back to the County Court, it must be noted that the sum of £598.17 should have been applied to service charge account for the service charge 2012/13 thereby reducing the sum owed for this year.

74. The tribunal has no jurisdiction over county court costs. This matter should now be returned to the Clerkenwell and Shoreditch County Court.

Name:	**Date:**
Miss J Guest	29/08/2013

Appendix of relevant legislation

Landlord and Tenant Act 1985

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 a leasehold valuation 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 a leasehold valuation 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) a leasehold valuation 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.

Leasehold Valuation Tribunals (Fees)(England) Regulations 2003

Regulation 9

(1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.

(2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

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 a leasehold valuation 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 a leasehold valuation 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).

Schedule 12, paragraph 10

(1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).

(2) The circumstances are where—
(a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
(b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.

(3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
(a) £500, or
(b) such other amount as may be specified in procedure regulations.

(4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.