



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

**Case Reference** : **LON/00AY/LSC/2015/0429**

**Property** : **Flat B, 43 Lynette Avenue, London,  
SW4 9HF**

**Applicant** : **Adam James Langridge (present at  
hearing)**

**Representative** : **None**

**Respondent** : **Kanwarjit Kahlon**

**Representative** : **None**

**Type of Application** : **Liability to pay service charges**

**Present at Hearing** : **Mr Langridge, Mr K Kahlon, Mr H  
Kahlon**

**Tribunal** : **Mr M Martynski  
Ms S Coughlin**

**Date of hearing** : **13 January 2016**

---

**DECISION**

---

## Decision summary

1. None of the Service Charges and Administration Charges challenged by the Applicant are payable by him as they were not accompanied by Summaries of Rights and Obligations.
2. It is possible for the Respondent to seek interim payments on account of insurance premiums paid on the last day of the Service Charge year in the following year.
3. The Service Charge demands in question had been properly served by the Respondent at the property address.
4. None of the Service Charges claimed are excluded by the 18-month rule as notification had been given to the Applicant of the sums in question during that period.
5. The Respondent is to pay to the Applicant his application fees totalling £315 within 21 days of the date of this application.
6. An order is made pursuant to section 20C Landlord and Tenant Act 1985 regarding the Respondent's costs of these proceedings.

## Background

7. The Applicant is the leasehold owner of the subject property which is a two-bedroomed flat in a Victorian House converted into three flats.
8. The Applicant's application is dated 2 October 2015 and challenges the following Service Charges.

Service charge item	2012/13	2013/14	2014/15	2015/16
Buildings insurance	£529.52	£533.63	£524.69	£539.45
Management fee	£52.95	£53.36	£52.47	£53.95
Interest	£26.21	£53.81	£82.80	£71.61

## The Applicant's lease

9. The lease is dated 8 February 1988 and is for a term of 99 years from 25 December 1987.
10. There is no issue that, under the terms of the lease, the landlord is entitled to claim, by way of a Service Charge, the costs of buildings insurance and a management fee. As for interest, it was agreed that

interest can be charged on sums payable and outstanding for more than 21 days. The Respondent conceded that this interest is simple interest at 4% above the base rate for the Midland Bank.

11. The mechanism of the Service Charge is set out in the Sixth Schedule of the lease. The annual accounting period runs from 26 March in each year. Provision is made for the landlord to claim an Interim Charge on account of the Service Charge for each accounting period. The amount of that Interim Charge is at the discretion of the landlord. Dates for payment of the interim charge are specified as 24 June and 25 December, half of the amount of the Interim Charge is payable on each of those dates.
12. The Sixth Schedule goes on to provide for the landlord, after the end of a Service Charge year, to serve a certificate upon the leaseholder setting out the Service Charge and Interim Charge for the year. It is by means of the service of this certificate that the landlord can recover from the leaseholder any excess Service Charge due over and above the Interim Charge for a Service Charge year.

#### **The Service Charge as operated by the Respondent**

13. It appears that the Respondent has only demanded Interim Charges over the years in question.
14. The evidence for demands for the Interim Charge for the years in question was as follows:-

*2012/13* – No demand available – the Respondent stated that one was sent out but he could not find a copy of it

*2013/14* - A demand dated 10 July 2013 for:

Insurance 25.03.12 – 25.03.13 - £529.52

Insurance 25.03.13 – 25.03.14 - £533.63

Management fees – £106.32

*2014/15* – A demand dated 20 March 2014 for:

Insurance 25.3.14 – 25.03.15 - £524.69

Management fees - £158.78

*2015/16* – A letter dated 7 April 2015 seeking payment for:

Insurance 25.03.15 – 25.03.16 - £539.45

15. The Respondent pays the buildings insurance premium each year on 25 March, that insurance covers the year from 25 March.
16. The Respondent had claimed from the Applicant compound interest upon all the above sums.

## **The Respondent's challenges and our decisions**

17. The Respondent made various challenges as to the payability of the Charges (he did not challenge the reasonableness of the sums themselves) as follows.

### *Defective demands*

18. None of the demands were accompanied by a statement of Rights and Obligations.
19. Section 153 Commonhold and Leasehold Reform Act requires that a statement of Rights and Obligations in prescribed form must accompany every Service Charge demand served upon a leaseholder. If such a statement does not accompany a demand, it is not payable.
20. As for the demands made for the years and amounts in question in this application, the Respondent admitted that no such statement of Rights and Obligations was served. The Respondent argued that the statutory requirement referred to above did not apply to demands for Interim Charges. He further argued that the demands for insurance were for 'an insurance rent' to which again the statutory provision did not apply.
21. The statutory requirement applies to any demand for any Service Charge and makes no distinction between Interim and Final demands or insurance and 'insurance rent'. Accordingly each interim demand served in this case should have been accompanied by a statement of Rights and Obligations.
22. The result of the Respondent's failure to comply with this statutory obligation is that the Service Charges demanded for the years in question are not payable.

### *Demands not interim demands*

23. According to the Respondent, the annual building insurance premium falls due on the 25<sup>th</sup> March in each year. That day is of course the last day of the Service Charge year as defined in the lease.
24. The first demand that we have evidence for is dated 10 July 2013. The first part of that demand is for insurance for the period 25.03.12 - 25.03.13. As the demand post-dates the period of the insurance and as the insurance premium was paid on 25.03.12, the demand for this sum cannot be a demand on account for the Service Charge year 26.03.12 - 25.03.13. For that reason it cannot be claimed pursuant to the lease as a demand on account.
25. The second part of the demand is for insurance for the period 25.03.13 - 25.03.14. The Applicant argued that this cannot be a demand on account for the Service Charge year running from 26.03.14 as the expenditure was incurred (i.e. the premium paid) on 25.03.13. The Applicant stated that this expenditure fell into the Service Charge year

ending 25.03.13, it could not therefore be claimed as a payment on account for the Service Charge year which started on 26.03.13.

26. We reject the Applicant's case on this point. It appears to us that where the insurance premium paid is for insurance that covers one day of one Service Charge year and 364 days of the following year, it is acceptable to treat the expenditure as being attributable to the following year. That being the case, a demand on account can be made in the Service Charge year 13/14 for an insurance premium that was actually paid on the last day of the Service Charge year 12/13.
27. However, the demand in question is dated 10 July 2013. The lease provides for interim payments in two equal amounts on 24 June and 25 December in each year. If the demand were payable (which it is not as it did not have with it the statement of Rights and Obligations), it would only be payable to the extent of 50% of £533.63 and it would only have been payable on 25.12.13.
28. The demand dated 10 July 2013 also demands a management fee for the years discussed above based on 10% of the insurance premiums demanded. We apply the same reasoning to the management fee. If therefore the demand had been payable, it would have been payable only to the extent of £26.58 payable on 25.12.13.
29. The second demand that we have evidence for is dated 20 March 2014. That demand is for insurance premiums as follows;

25.03.12 - 25.03.13	£529.52
25.03.13 - 25.03.14	£533.63
25.13.14 - 25.03.15	£524.69
30. The demand cannot be an effective interim demand for the first two years as by the time of the demand, either those years had passed or the time for interim payments for those two years had passed.
31. As for the demand for the period 14/15, applying the reasoning above, that could be a demand for this period. Had the demand been accompanied by the statement of Rights and Obligations, it would have been payable in two equal instalments on 24 June and 25 December 2104.
32. The demand dated 20 March 2014 also contains a claim for a management fee, again based on 10% of the insurance premiums. Again, applying the same reasoning, the only management fee that would have been payable had the demand been accompanied with the statement of Rights and Obligations would have been 10% of the insurance premium of £524.69 and that would have been payable in two equal instalments on 24 June and 25 December 2014.
33. The third demand that was shown to us is a letter dated 7 April 2015. That demand is for £539.45 in respect of the insurance premium for the period 25.3.15 - 25.03.16. Following on from our comments regarding

the other demands, had this demand been accompanied by a statement of Rights and Obligations, the sum of £539.45 would have been payable in two equal instalments on 24 June and 25 December 2015.

*Address for service*

34. The Applicant argued that, in any event, the demands had not been served upon him properly as they had been sent to the property address (which was let out to tenants) as opposed to the Applicant's home correspondence address. The Applicant further stated that these demands had not come to his attention at the time that they were sent.
35. The Applicant argued that he had given sufficient notice of his correspondence address to the Respondent. In support of this he referred to a letter sent by the Respondent's solicitors to him at his correspondence address dated 17 May 2011. The letter, the Applicant said, was sent to his correspondence address rather than the subject property address because he had given the Respondent's solicitors his correspondence address in a telephone call with them before the letter of 17 May 2011 was sent out. He had assumed that the notification of his correspondence address would have been passed to the Respondent by his solicitors.
36. We do not accept that the above constitutes good notice by the Applicant upon the Respondent that his address for service of demands was his correspondence address rather than the subject property address. There is no evidence that the Applicant had made it clear to the Respondent that his address for service of all Service Charge demands was his correspondence address.
37. We accept that the Respondent had sent demands by post to the subject property address. The Respondent provided some evidence of this at the hearing by showing a screen shot from his computer. We accept that, in the absence of any proper notice from the Applicant as to an alternative address, the demands were sent out properly to the subject property address.

*Interest*

38. Given the various demands are not payable, no interest can be due on the sums in question.

*Section 20B Landlord and Tenant Act 1985*

39. The Applicant argued that some of the sums in question were not payable as he had not been notified about them until after 18 months from the time that the expenditure had been incurred.
40. As we have found that the demands were properly served upon at the subject property address, it follows that we reject this challenge

## **Fees and costs**

41. Although in some respects we have rejected the Applicant's challenges, we have found that none of the sums in question are payable by the Applicant and therefore he has, in that respect, been completely successful. Accordingly we order that;-
- (a) The Respondent do pay to the Applicant the fees that he has paid to this tribunal in respect of his application amounting to £315.00. That sum is to be paid within 21 days from the date of this decision
  - (b) None of the costs incurred, or to be incurred, by the Respondent in connection with these proceedings are to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the Applicant

**Name:** Mark Martynski,  
Tribunal Judge

**Date:** 3 February 2016

### **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.