

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

SOUTHERN LEASEHOLD VALUATION TRIBUNAL

Case number: CHI/40UC/LAC/2010/0004

In the matter of: Flat 7, 121 Stoddens Road, Burnham-on-Sea, Somerset, TA8 2DD

And in the matter of: an application under Schedule 11 of the Commonhold and Leasehold Reform Act 2002 for a determination of liability to pay administration charges.

Between:

Greenways Residential Management Limited Applicant

and

Mr. Stephen John Tripp Respondent

Date of issue of claim: 9 February 2010

Date of hearing: 22 June 2010

Members of the Tribunal: Mr. J G Orme (lawyer chairman)

Mr. S J Hodges FRICS (valuer member)

Date of decision: 25 June 2010

Decision of the Leasehold Valuation Tribunal

For the reasons set out below, the Tribunal determines that none of the administration charges claimed by Greenways Residential Management Limited from Mr. Stephen John Tripp in claim number 0QT16489 issued in the Northampton County Court on 9 February 2010 are payable by Mr. Tripp.

Reasons

The Background

1. On 9 February 2010, the Applicant, Greenways Residential Management Limited, issued a claim in the Northampton County Court claiming the sum of £197.41. The claim was issued against the Respondent, Mr. Stephen John Tripp. The claim was in respect of charges invoiced for the period from 17 February to 26 November 2009 due under a lease dated 1 November 2002. The sums claimed included £30 for the grant of an assent to sublet together

with charges for copying, postage, legal fund, discussions with third parties and penalties for late payment of invoices.

2. On 20 February 2010, the Respondent filed a defence disputing the full amount claimed. He said that the claim was for administration charges which were not payable because:
 - a. the charge for consent to subletting related to a subletting which took place before the Applicant owned the freehold;
 - b. that there had, in any event, been a compromise agreement between the Applicant and the Respondent whereby the Applicant accepted payment of £62.22 in full and final settlement of all sums due including any fee for retrospectively approving a subletting; and
 - c. that the Applicant had failed to serve the summary of tenant's rights and obligations with the demands for payment.
3. The claim was transferred to the Plymouth County Court which, by an order dated 8 April 2010, transferred the claim to the Leasehold Valuation Tribunal for determination.
4. The Tribunal issued directions on 21 April 2010 providing for the Applicant to file and serve a statement of case together with supporting documents by 21 May 2010 and for the Respondent to file a statement of case and supporting documents within 21 days thereafter. The directions provided for the matter to be determined on the basis of written representations only. The Applicant applied for an oral hearing.
5. The Applicant filed its statement of case and supporting documents on 1 June 2010. The Respondent filed his statement of case and supporting documents on 4 June 2010. At the same time he notified the Tribunal that he would not be attending the hearing on 22 June and that he was content for the matter to proceed in his absence. The Applicant then filed a further submission with further documents. On 11 June 2010 the Respondent wrote to the Tribunal objecting to the further submission on the basis that the directions did not provide for it, that it introduced new issues and that he would not have time in which to respond to the document before the hearing on 22 June. The Respondent then filed a further submission by way of letter dated 15 June.
6. The application was listed for hearing, without an inspection, on 22 June 2010.

The Law

7. The law relating to payment of administration charges is to be found in Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the Act"). The relevant parts of the schedule provide as follows:

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) ...

(3) ...

(4) ...

2 A variable administration charge is payable only to the extent that the amount of the charge is reasonable.

3 ...

4 (1) A demand for the payment of an administration charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to administration charges.

(2) The appropriate national authority may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3) A tenant may withhold payment of an administration charge which has been demanded from him if sub-paragraph (1) is not complied with in relation to the demand.

(4) Where a tenant withholds an administration charge under this paragraph, any provisions of the lease relating to non-payment or late payment of administration charges do not have effect in relation to the period for which he so withholds it.

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) ...

8. The Administration Charges (Summary of Rights and Obligations) (England) Regulations 2007, SI 2007/1258 prescribe the form and content of the summary of rights and obligations which must accompany a demand for the payment of an administration charge. Those regulations apply to any demand for payment made after 1 October 2007.

The Lease

9. The Applicant provided the Tribunal with a copy of a lease purporting to be the lease of flat 7, Greenways, 121 Stoddens Road, Burnham-on-Sea. Mr. Mason, who appeared before the Tribunal on behalf of the Applicant, informed the Tribunal that the copy consisted of a copy of the front page of the lease for flat 7 with the remainder being a copy of the lease for flat 2. He said that the leases were in standard terms and that the lease of flat 7 was in the same terms.
10. The lease is dated 1 November 2002 and was granted by Square Mile Property Investments Limited ("Square Mile") to the Respondent. It demised flat 7 to the Respondent for a term of 999 years at a peppercorn rent. An insurance charge and a service charge are payable by way of additional rent.
11. The lease contains service charge provisions. The fifth schedule contains covenants by the lessor to maintain the structure and common parts in a good state of repair and decoration. The costs are recoverable through the service charge. The fifth schedule sets out the other costs which may be included in the service charge, including the costs of management. The lessee is obliged to pay 1/9th of the total service charge.
12. Clause 5 of the lease anticipates that the lessor might transfer the freehold reversion to a lessees' management company and provides for the lessee to take a share in that company and to transfer his share on any assignment of the flat.
13. The third schedule to the lease contains a number of covenants and restrictions binding on the lessee. Paragraph 11 is in the following terms "*The Lessee shall comply with and observe any reasonable regulations which the*

Lessor may make consistently with the provisions of this Lease to govern the use of the Flats and/or the Building and/or the Estate."

14. The fourth schedule to the lease contains further covenants by the lessee.

Paragraphs 6 and 7 provide:

"6. The Lessee shall not;

6.1 sub-let the whole of the Premises without the Lessor's consent such consent not to be unreasonably withheld or delayed save that the Lessee shall not sub-let to a person who is in receipt of statutory housing or unemployment benefits or to a registered social landlord (as defined in the Housing Act 1996)

6.2 assign or sub-let part only of the Premises.

7. The Lessee shall within twenty-eight days of the date of every transfer of grant of Probate or Administration Assent Mortgage Charge Discharge Order of Court underlease or other event or document relating to the devolution of title to the Premises or this Lease give notice thereof in writing to the Lessor and pay to it (or its solicitors) a reasonable registration fee (being not less than £30 plus VAT) and in the case of a document produce a certified copy of it to the Lessor for registration with the notice."

15. Clause 8.1.1 provides *"It is agreed by the parties that a notice shall be deemed duly served on the Lessee if addressed to the Lessee and left at or sent by registered post recorded delivery or special delivery to the Premises and every such notice shall be deemed to have been served on the day on which it is so left or if posted the day immediately following that on which it is so posted."*

The hearing and the issues

16. The hearing took place at The Campus, Locking Castle, Weston-super-Mare on 22 June 2010.

17. The Applicant was represented by Mr. Mason who is a director and the company secretary of the company. The Respondent did not appear, having informed the Tribunal that he would be abroad and that he was content for the hearing to proceed in his absence.

18. Before proceeding, the Tribunal considered the Respondent's objection to the Applicant's further submissions. Having heard submissions from Mr. Mason the Tribunal determined that it would consider the further submissions of both the Applicant and the Respondent. It came to that conclusion because it was clear that the Respondent had received the Applicant's further submissions and had had an opportunity to reply to them. The Respondent had not raised any suggestion that he would suffer prejudice if the Tribunal considered those submissions.

19. The Tribunal identified the following issues for determination:

a. Was the Applicant entitled to raise a charge for assent to sublet?

There were subsidiary issues:

i. When did the subletting occur?

ii. Was notice given to the landlord at the time and was a registration fee paid?

iii. If the fee was payable to Square Mile, had the right to receive payment been assigned to the Applicant?

iv. Was the Applicant entitled to raise a charge retrospectively?

b. Was the Applicant entitled to raise the other charges which it seeks to recover?

c. Was there a compromise agreement in 2009 which prevented further recovery?

d. Had the Applicant complied with the requirement to serve the summary notice of rights and obligations?

The Evidence

20. The Applicant provided a bundle of copy invoices which showed that the sum claimed was made up as follows:

Invoice no.	Date	Description	Amount
030709	01.03.09	Copies & postage, legal fund, enquiries of land registry	£27.12
040709	21.05.09	Grant of assent to sublet Flat 7	£30.00
050709	21.05.09	Late payment fee	£12.00
060709	21.05.09	Discussions and correspondence with third parties	£54.50
070709	21.05.09	Telephone and postage	£2.78
080709		(copy not provided)	£13.00
090709	24.09.09	Late payment fee	£12.00
100709	24.09.09	Discussions with third parties,	£19.14

		postage and copies	
110709	26.11.09	Discussions with third parties, late payment fee, telephone, postage and copies	£35.97

The total of those invoices is £206.51 against which was set a credit of £10. The amount claimed was £197.41.

21. Both parties proceeded on the basis that until 2007, the freehold of 121 Stoddens Road was owned by Square Mile and that the Applicant company was incorporated on 25 June 2007.

22. The Applicant's case was that the Articles of Association of the Applicant company and the provisions of the third schedule to the lease permit the Applicant to introduce rules and byelaws to govern the use of the property. The Applicant says that notice of the proposed rules and byelaws was given on 28 May 2007 to the prospective members of the company prior to its incorporation, that they were adopted by the directors of the company on 22 August 2007 and that they were approved and adopted at the annual general meeting of the company held on 1 November 2008. The regulation in respect of administration provides that invoices issued to lessees should be paid in full within 14 days plus any interest authorised by the lease together with an administration fee of not less than £12. The regulation in respect of subletting sets out the procedure for lessees to obtain consent to sublet. It provides for a minimum fee of £30 for consent. Although the regulation does not stipulate that it was to operate retrospectively, the notice given to prospective members on 28 May 2007 said *"as grants of licence to sublet are not being assigned by Square Mile (Residential) Limited new applications will be necessary in respect of present tenants and these will be considered by the directors without delay following incorporation. Fees in line with the provisions of the lease will be made in respect of licences."* The freehold of 121 Stoddens Road was transferred to the Applicant on about 24 September 2007.

23. The Applicant's further submission referred to a subletting by the Respondent to Mr. Gorman. It enclosed a copy of an application for a licence to sublet submitted by the Respondent dated 20 January 2008 which referred to a subletting to Mr. Gorman on 2 November 2006. The Applicant produced copies of 2 licences issued by the Applicant giving consent to the subletting to Mr. Gorman. One says that the consent was granted at a board meeting held on 18 January 2009, the other refers to a board meeting held on 15 May 2009. The Applicant issued an invoice to the Respondent for £30 for *"Grant of assent to sublet Flat 7 Greenways."* The Applicant produced a copy of a director's resolution resolving to rescind the consent on the grounds that the Respondent had failed to pay the fee.

24. At the hearing, Mr. Mason gave oral evidence that the consent to subletting referred to a subletting by the Respondent to Miss Naidu on 30 June 2006. He produced a letter from Gary Berryman Estate Agents Limited dated 24 May 2010 which confirmed that Miss Naidu had been a tenant of flat 7 from 30 June to 31 October 2006.
25. The Respondent's case is that the charge for subletting relates to the subletting to Mr. Gorman on 2 November 2006. He says that he obtained consent from Square Mile to that subletting. He produced a copy of an e-mail dated 6 June 2006 from the solicitors acting for Square Mile in response to his formal request for approval to sublet which says *"the landlord (management company) is not able to withhold consent unreasonably to a subletting of the whole of your flat and on the basis that you are able to obtain satisfactory references for the tenant the landlord will not be able to refuse to give the required consent. I expect that you will now instruct local agents."* He says that as consent to sublet was granted by Square Mile before the Applicant became the freehold owner, the Applicant has no right to levy a retrospective charge in relation to an existing arrangement. He says that the Applicant should ratify the pre-existing permission granted by Square Mile without levying any additional charges and to that end, he submitted an application to the Applicant for consent to sublet which, he says, was headed *"for information purposes only"*. The Respondent gave no evidence as to whether or not he had given notice of the sub-letting to Square Mile or paid a registration fee to Square Mile in respect of the subletting to either Miss Naidu or Mr. Gorman as required by paragraph 7 of the fourth schedule to the lease.
26. Mr. Mason submitted that the e-mail produced by the Respondent did not amount to consent to sublet. He did not think that the Respondent had given notice of the subletting to Square Mile nor that he had paid a registration fee. Mr. Mason was unable to produce any evidence of an assignment by Square Mile to the Applicant of the right to receive payment of any registration fees which may have been due from the Respondent to Square Mile.
27. In relation to the invoiced charges, other than the fee for consent to sublet, Mr. Mason said that they represented costs incurred by the Applicant in dealing with the Respondent on a number of matters. He said that the charges were payable by the Respondent only and not by other lessees. He said that the charges were raised in accordance with the rules and byelaws agreed by the Applicant. He was unable to identify any provision in the lease which entitled the Applicant to raise such charges other than paragraph 11 of the third schedule.
28. The Respondent's case in relation to the compromise agreement is that he had communications with the Applicant from November 2008 to January 2009

which resulted in an agreement being reached whereby he would make a payment of £62.22 to settle all outstanding charges including any disputed fee for retrospectively approving his subletting arrangement. He was unable to produce a copy of the e-mail which concluded that agreement. However, he said that it was referred to in a subsequent letter to another director of the Applicant company and that he paid the money by cheque which was paid in by the Applicant.

29. In its submissions, the Applicant denied that there was any such agreement although it accepted that the Respondent had paid £62.22 in settlement of outstanding charges due at the time. During the course of the hearing Mr. Mason was asked whether he had a copy of the Respondent's e-mail. Initially, he gave evidence that he had received an e-mail in the terms suggested by the Respondent. He then changed his answer to say that he had no record of receiving it. He subsequently produced a file of correspondence and e-mails which included a copy of the Respondent's e-mail. The sequence of events recorded in that file is set out in the following paragraphs.

30. On 18 November 2008 the Respondent wrote to the Applicant offering a compromise payment of £56 *"In return I would expect all outstanding allegations against me about perceived breaches of the lease to be withdrawn."* That letter was acknowledged by the Applicant on 11 December 2008. The Respondent wrote a further letter on 30 December 2008 which took the matter no further forward.

31. On 18 January 2009 Mr. Mason sent an e-mail to the Respondent in which he said *"with reference to your letter of 18 November the directors are willing to accept a compromise payment to that date of £56 plus one ninth (being your share of the accrued benefit) and will accept this payment of £62.22 directly into our account number 06739659, sort code 12-24-82. ... The directors trust that correspondence on these matters is now closed. The outstanding issue of subletting will be dealt with separately."*

32. On 20 January 2009 the Respondent sent an e-mail to Mr. Mason in which he said *"although disappointed to note that you have not accepted my proposed payment on the terms outlined in my letter of 18 November, nevertheless, I am arranging for payment of £62.22 to be made directly into the Greenways Residential Management Limited account. This will settle all outstanding charges, including any disputed fee, for retrospectively approving my subletting arrangements."*

33. That was followed by a further e-mail from the Respondent to Mr. Mason dated 1 February 2009 in which he told Mr. Mason that he had been unable to make an electronic transfer to the Applicant's bank account and that he was sending a cheque by post. Mr. Mason confirmed that he remembered that e-

mail, that he received the cheque and that he paid it in to the Applicant's account. He said *"That's how we came to the nil balance."* In answer to a question from the Tribunal as to the basis on which the cheque was paid into the account, Mr. Mason said *"He was paying against an invoice we sent to him. There were many discussions at board meetings. We just wanted an end to it."*

34. There was then a further e-mail sent by Mr. Mason to the Respondent on 16 February 2009 which said amongst other things, *"the company has not retrospectively approved your subletting arrangements."*
35. The Respondent's case in relation to the summary of rights and obligations is that the summary was not enclosed with any of the invoices or demands for payment which he actually received.
36. The Applicant's case is that it sent a copy of the summary to all lessees on 16 May 2009 and that a copy of the summary has been enclosed with all invoices issued since that date. It goes on to say that it sent a large number of items of correspondence to the Respondent in accordance with clause 8.1.1 of the lease, that they were not accepted by him and that they were subsequently returned to the Applicant.
37. In his oral evidence to the Tribunal, Mr. Mason said that the relevant invoices were sent to the Respondent by first class recorded delivery post addressed to the Respondent at his address in Plymouth. The invoices included a copy of the summary. He said that a further copy of the invoices were sent by ordinary post to the address in Plymouth as the Respondent was not collecting recorded items but that those copies did not include a copy of the summary. Mr. Mason said that many of the recorded delivery items had been returned undelivered but he was unable to confirm which had been delivered and which had been returned. He relied on clause 8.1.1 of the lease to deem that the invoices had been properly served on the Respondent.

Conclusions:

38. The Tribunal's jurisdiction in this matter arises under schedule 11 to the Act. The Tribunal's jurisdiction is to determine whether an administration charge is payable. An administration charge is an amount payable by a tenant under the terms of his lease. In determining that issue, the Tribunal is bound by the terms of the lease.
39. The Tribunal is aware that in many cases the members of the management company are the lessees of the property. In those cases, the relationship between the company and its members and between the individual members will be governed by the Articles of Association of the company. Those articles

may provide for payments to be made by the members to fund the activities of the company. The Tribunal has no jurisdiction to deal with disputes in relation to such payments.

40. The Articles of Association govern the management of the company not the property. It is the lease that governs the management of the property and it is the terms of the lease that must be considered by the Tribunal. The members of the Applicant company have agreed regulations which may bind them as members of the company but those regulations do not affect the legal relationship between the Applicant as landlord and the Respondent as lessee unless they are permitted and authorised by the lease.
41. In relation to subletting, the terms of the lease are clear. Paragraph 6 of the fourth schedule provides that if a lessee wishes to sublet the whole of his flat, he may only do so if he has obtained the landlord's consent. That consent cannot be withheld unreasonably. There is no provision in paragraph 6 for the lessor to make a charge for providing that consent. Paragraph 7 provides that once a lessee has sublet his flat (having obtained consent under paragraph 6), the lessee must, within 28 days, give notice in writing to the lessor and pay a reasonable registration fee. The purpose of that provision is to enable the lessor to maintain a record of subletting and other events which may affect the ownership and occupation of the flats.
42. There was no evidence before the Tribunal that Square Mile gave any consent to the Respondent to sublet flat 7 to either Miss Naidu or Mr. Gorman. The e-mail dated 6 June 2006 does not give that consent. It is merely explanatory and confirms that the landlord is not able to withhold consent unreasonably. It anticipates that the Respondent would seek formal consent once he had identified a tenant and obtained references for that tenant. The Respondent produced no evidence to show that he had done that.
43. There was no evidence before the Tribunal that the Respondent had given Square Mile notice of the subletting of flat 7 to either Miss Naidu or Mr. Gorman within 28 days of subletting as required by paragraph 7, nor that he had paid the appropriate registration fee.
44. There was no evidence before the Tribunal that Square Mile had transferred to the Applicant any right which it may have had to receive registration fees arising from the sublettings in 2006.
45. There is no need for the Tribunal to make any findings of fact in relation to the matters referred to in the 3 previous paragraphs and it does not do so in case they may be at issue in other proceedings.

46. The Tribunal finds that the Respondent applied in 2008 for retrospective consent for the subletting to Mr. Gorman. At that time he thought that he had obtained consent from Square Mile and he applied in order to satisfy the Applicant's request to regularise the position. The Applicant granted that consent on either 18 January 2009 or 15 May 2009 and raised a charge of £30 for that consent.
47. The Tribunal concludes that the Applicant was not entitled to raise that charge for two reasons:
- a. First, there was no provision in the lease entitling the Applicant to charge for consent. The invoice clearly states that it was for "*grant of assent to sublet*". Paragraph 6 of the fourth schedule does not provide for such a charge. The lease entitles the Applicant to charge a registration fee under paragraph 7. A registration fee is different from a charge for a consent. This was not a registration fee. The invoice does not refer to it as a registration fee. Paragraph 11 of the third schedule does not assist the Applicant because a regulation providing for a fee to be payable for a consent would be inconsistent with paragraph 6 of the fourth schedule. Further, there is no evidence that, having obtained the consent from the Applicant, the Respondent gave notice of the subletting. The Tribunal notes that it is doubtful whether any registration fee would now be payable to the Applicant. The obligation to give notice and to pay a registration fee arose within 28 days of the subletting in November 2006. The registration fee would have been due to Square Mile and not to the Applicant. There is no evidence before the Tribunal that the Applicant is entitled to sue for that fee.
 - b. Secondly, the Tribunal is satisfied that there was a concluded agreement between the Applicant and the Respondent whereby the Respondent paid £62.22 to the Applicant on the basis that "*this will settle all outstanding charges, including any disputed fee, for retrospectively approving my subletting arrangements.*" Those are the terms set out in the Respondent's e-mail to Mr. Mason dated 20 January 2009. The offer contained in the Respondent's letter dated 18 November 2008 was refused by the Applicant in the e-mail sent by Mr. Mason on 18 January 2009. That e-mail put forward a counter offer which provided that the outstanding issue of subletting would be dealt with separately. That counter offer was not accepted by the Respondent but he put forward a further proposal in his e-mail dated 20 January. Had he been successful in making an electronic transfer direct to the Applicant's account, it is doubtful whether he would have been able to rely on the terms of that e-mail to say that there had been a concluded agreement. As he was not able to make an electronic

transfer, he sent a cheque to the Applicant. The Tribunal finds as a fact that that cheque was tendered to the Applicant on the basis set out in the Respondent's e-mail dated 20 January. The Applicant received the cheque and paid it into its account. In so doing, it accepted the terms set out in the Respondent's e-mail. It is clear from Mr. Mason's evidence that that is what he intended to do. He said "*we just wanted an end to it.*" That cheque was tendered in settlement of all outstanding charges including any disputed fee for retrospectively approving the Respondent's subletting arrangements.

48. The Tribunal will deal with all the other charges raised by the Applicant together. The Tribunal accepts that a management company has to carry out administrative tasks as part of the proper management of the property. It is often the case that the cost of those tasks is recoverable through the service charge, in which case, the cost would be borne by all lessees. It may or may not be the case that the costs which the Applicant has incurred in dealing with the Respondent are costs which are properly chargeable to the service charge account under schedule 5 of the lease and that the Respondent would have to pay a proportion of those costs. However, that is not how they have been claimed. The Applicant is seeking to raise the charges solely against the Respondent and it is seeking to recover them as administration charges. Mr. Mason was not able to point to any provision in the lease entitling the Applicant to raise such charges with the exception of paragraph 11 of the third schedule. The Tribunal does not consider that that paragraph assists the Applicant. That paragraph enables the Applicant to make regulations (consistent with the provisions of the lease) to govern the *use* of the flats, the building or the estate. It is not a provision which enables the Applicant to raise administration charges which are not otherwise provided for in the lease. The Tribunal finds as a fact that there is no provision in the lease enabling the Applicant to raise such charges against individual tenants in isolation and it concludes that they are not payable by the Respondent.

49. In the light of the Tribunal's findings and conclusions so far, the issue of whether or not the Applicant provided a copy of the summary of the rights and obligations of tenants with the demand for payment of the administration charges is of no practical consequence. However, as the issue has been raised, the Tribunal has come to a conclusion on the issue. Mr. Mason was unable to confirm that the Respondent received a copy of the summary with each demand for payment as required by paragraph 4 of schedule 11 to the Act. He relied on the deeming provisions in clause 8.1.1 of the lease. In order to rely on those provisions, the Applicant must comply with them in strict terms. Clause 8.1.1 requires notice to be sent to the premises, that is to flat 7. Mr. Mason's evidence was that the demands were sent to the Respondent's

address in Plymouth. Therefore, the Applicant has not complied with clause 8.1.1 and it cannot rely on it. The Tribunal concludes that if any of the administration charges were payable, the demand for payment of them was not accompanied by the appropriate summary of rights and obligations and that would have entitled the Respondent to withhold payment of the charges.

50. In the circumstances, the Tribunal concludes that none of the charges claimed by the Applicant are payable by the Respondent.



J G Orme

Chairman

25 June 2010