10506

		**FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)**
Case Reference	:	**LON/OOAH/LSC/2014/0365**
Property	:	**Flat F, 200 St James Road, Croydon, CRo 2BW**
Applicant	:	**J H Watson Property Investment Limited (landlords)**
Representative	:	**Mr N Warren of JH Watson Property Management Limited (managing agents)**
Respondent	:	**Mr S Sakka (leaseholder)**
Representative	:	**Mr Sakka represented himself**
Type of Application	:	**Liability to pay service and or administration charges (made under section 27A of the Landlord and Tenant Act 1985) following a transfer of an action from the Croydon County Court.**
Tribunal Members	:	**Judge James Driscoll Mr Mel Cairns and Judge Tim Cowen.**
Date and venue of Hearing	:	**10 November 2014 (written representations were received from the parties after the date of the hearing).**
Date of Decision	:	**18 December 2014**

DECISION

The Decisions summarised

Service charges

1. For the service charge accounting period January to December 2012 the tribunal determines that: (1) a reasonable charge for the cost of external repairs to the building is the sum of £6,000; (ii) the reasonable charges for the professional fees in administering the statutory consultation process and in supervising the works is the sum of £345 inclusive of VAT; (iii) the reasonable charges for the costs of insuring the building is the sum of £2,500 and (iv) that the reasonable costs of using the managing agents should be based on a figure of £200 for each flat in the building.

2. For the service charge accounting period January to December 2013 the tribunal determines that: (i) a reasonable figure for the costs of insuring the building is the sum of £2,500 and (ii) a reasonable charge for employing managing agents should be based on £200 per flat.

3. For the service charge year accounting period January to December 2014 the tribunal determines that: (i) a reasonable figure to be charged for insuring the building is the sum of £2,500, (ii) a reasonable figure to be charged for employing managing agents should be based on £200 per flat.

Costs

4. Administration charges claimed for works undertaken by the managing agents in connection with these proceedings are disallowed.

5. No order is made under regulation 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 requiring the leaseholder to pay costs to the managing agents.

6. No order is made under section 20 C of the 1985 Act.

Background to the application

7. This application has been made in somewhat confusing circumstances. Proceedings were started by the landlord in the county court seeking recovery of unpaid service charges for the service charge year 2013. These proceedings were started against the leaseholder by the landlord's managing agents who claimed the sum of £1,199.67 for unpaid maintenance charges and the sum of £423 as a claim for administration charges (claimed for work undertaken by the managing agents in seeking to recover unpaid service charges).

8. By an order made by the Croydon County Court on 8 July 2014 the claim was transferred to this tribunal after the leaseholder filed a form of defence. We are to determine the recoverability of the service charges claimed by the landlord from the leaseholder. These determinations are to be made under section 27A of the Landlord and Tenant Act 1985. In addition we are to determine the recoverability of administration charges under paragraph 5, Schedule 12 of the Commonhold and Leasehold Reform Act 2002. (Copies of the relevant provisions are appended at the end of this decision).

9. A case management conference was held on 7 August 2014. It was attended by Mr Warren on behalf of the landlord and the managing agents. Mr Sakka could not attend but he wrote to the tribunal with his suggestions as to the directions that should be made.

10. The tribunal decided that issues relating to service charges and administration charges for the years ending 31st December 2012, 31st December 2013 and 31st December 2014 needed to be determined. A number of directions concerning the applications were given.

11. There have been several previous tribunal cases involving these parties but it is unnecessary to consider them in any detail in reaching a determination in this case.

The hearing

12. The hearing of this application took place on 10th November 2014. Mr Warren represented the landlords and Mr Sakka appeared and represented himself. At the outset of the hearing we raised the issues of which years we had jurisdiction to consider. We told the parties that we could only consider the charges that are the subject of the county court proceedings that were commenced in January 2014. Mr Warren told us that the particulars of claim included charges for all three of the years identified at the case management conference though he accepted that it did not include all of the charges for 2014. As both parties had prepared their cases on the footing that all three years' charges would be considered (and the managing agents had prepared the bundles of documents on this basis) it was agreed these three periods would be considered. However, the landlords will have to complete an application form for the 2014 period which was not (and could not) be included in the particulars of claim.

13. Mr Sakka agreed with this course of action. He also told us that he does not live in the flat as he he rents out as an investment. However, he is himself familiar with the flat and the building as he regularly visits it in connection with its letting.

14. On 25 November 2014 the tribunal received an application for the 2014 period along with other representations made on behalf of the landlord. We later received comments on those representations from Mr Sakka.

15. As for Mr Warren, he told us that his firm are located in Leeds, Yorkshire. He has never seen the subject premises or the building it is located in.

16. We then considered the disputed items in relation to each service charge accounting period. Under the lease of the flat, the landlord has the usual covenants to repair, maintain and to insure the premises which contains seven flats. The leaseholder has to contribute to these costs by payment of service charges. Two demands for payment are made each year. Mr Sakka has to pay 18.674 % of the landlord's costs in discharging these obligations.

17. Under clause 3 of the lease the leaseholder covenants to pay the reserved rent and to pay the 'interim charge' and the 'service charge' in the manner provided for in the fifth schedule to the lease. Interim charges are made each January and July. These charges are recoverable in default as rent in arrear (clause 3(2)(a) of the lease).

18. Another provision relevant to these applications is the leaseholder's covenant in clause 3(6) of the lease which provides that the leaseholder must 'pay unto the Lessor all costs charges and expenses (including legal costs and fees payable to a Surveyor) which may be incurred by the Lessor in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925'.

19. The fifth schedule, paragraph 1 to the lease includes the power to recover expenditure for the cost of employing managing agents.

20. We then heard evidence and submissions on the claims and the the leaseholder's challenges to them. We did this by taking the years ending 31 December 2012 though to 31 December 2014 that is by considering the charges for the three accounting periods consecutively. It became apparent that the leaseholder's main challenges were to works carried out in 2012, the high costs, as he sees it, of the insurance and what he considers to be excessive costs for employing the managing agents. Another recurring complaint is the level of administration charges made in connection with the recovery of service charges.

Our decisions

21. We deal first with the service and administration charges for the accounting period which ended 31 December 2012. During this period the landlord incurred expenditure on works to the exterior of the building. These works consisted of external decorative works for which the sum of £10,000 is charged.

22. The parties agree that the works were preceded by a statutory consultation process required by section 20 of the 1985 Act and the regulations made under that provision. Nor is there any dispute as to whether the landlords have powers under the lease to incur such expenditure. Mr Sakka's objection his complaint that the works were not carried out satisfactorily. The parties agree that the works were completed in October 2012. We were shown several photographs of the exterior of the building which Mr Sakka took on 17 March 2013 some six months after completion of the decorative

works. These included pictures which suggest that parts of the building may not have been properly cleaned before they were repainted. We were shown pictures of what appeared to be poorly finished window sills and poorly decorated external pipes (and one pipe that was broken). The pictures included scenes from both the front and the rear of the building.

23. Mr Warren told us that the works were supervised by a Mr Cronin but he no longer works for his firm. This is why he has no statement signed by Mr Cronin nor any other witness who can give evidence on behalf of the landlord on the state of the decorative works. According to Mr Warren there is heavy traffic in St James Road which can lead to damage to buildings.

24. Following a series of questions we directed to Mr Sakka, he told us that he considered that a reasonable figure to be charged for these works is 60% of the costs quoted. As he also complains that the works were not properly supervised so the costs claimed for this side of the work should also be reduced. He has no complaints about the statutory consultation process.

25. Turning to the costs of insuring the building Mr Sakka argues that these are too high. The sum of £4,032.98 is claimed for the cost of insuring the building in the 2012 accounting period. Mr Sakka told us that he has made enquiries of several reputable companies who offer more competitive rates. In reply Mr Warren told us that when the landlords acquired this building on or about 16 December 1999 the sellers, a company called Phyllis Trading Limited, retained the right to arrange the insurance each year. He added that the company uses a broker to arrange the insurance which he believes is arranged competitively. At the close of the hearing we asked Mr Warren to provide more information on what marketing the broker undertakes before placing the insurance and for other information on the insurance arrangements. On 11 November the case officer wrote to Mr Warren on various matters including the outstanding insurance issues. In that regard, the letter stated *'The Tribunal would also like to see statement supplied to your company by the person who acts as the insurance broker with (a) details of market research undertaken and (b) the quotations received for the insurance and the amount of commission that is received.'*

26. The tribunal received his response on 25 November 2014. As to the insurance he replied as follows: *'With regard to the matter of insurance, we have, since receiving your letter, been in contact with the insurance broker who places insurance at the property on behalf of the previous Landlord, and have requested that they provide us with details pertaining to the testing of the market before placing the insurance, quotations obtained in respect of such, and any commission that is received by any party. It is with regret that I must advise the Tribunal that such information has not been forthcoming. Nonetheless, it is respectfully suggested that the absence of this information does not necessarily dictate that the cost of the buildings insurance is unreasonable in consideration of s.19 of the 1985 Act, and I would respectfully suggest to the Tribunal that the costs of insurance in each of the years subject to this case do fall within the range of reasonableness. This would be in keeping with each of the previous decisions of the LVT between the Applicant and the Respondent, where on each occasion the Tribunal have found that the cost of the buildings insurance is payable in full'.*

27. We then heard argument on the level of the management fees. Mr Sakka complains that he receives a poor rate of response to any concerns he wishes to make. He added that the very location of the managing agents (in Leeds) is an additional factor that makes them, in his experience, remote and unhelpful. Citing the poor supervision of the external works in 2012 he also complains that the managing agents have been far too slow in arranging for internal decorative works to be carried out.

28. In response, Mr Warren told us that his firm employs people to deal with the properties they manage who are available to deal with leaseholder concerns. His company entered into a management contract with the landlords shortly after they acquired the property. They have an annual contract renewable each year. They base their current annual charges on a rate of £220 per flat.

29. We then considered the claims for administration charges. Under this head of charge Mr Warren told us that additional charges are made if they have to send a reminder to a leaseholder who is in arrears with service charge or other payments. He drew our attention to a schedule of these charges at tab 3 of the bundle. Service charge demands, he told us, are sent 30 days before the date they are due. If the charges are not paid, a reminder is sent (for which there is no charge made); a second reminder is sent after 7 - 10 days after the first one for which a charge of £42 is made and if the charges remain unpaid a final reminder is sent for which a charge of £60 is made.

30. Mr Warren submits that these are other charges made to recover service charges are recoverable under clause 3(6) of the lease as steps taken in contemplation of a forfeiture claim. In this connection he relies on two authorities: Freeholder of *69 Marina v Oram* [2011] EWCA Civ 1258 and *Barrett v Robinson* [2014] UKHT 0322 which he submits supports this position.

31. We consider that clause 3(6) which as we noted earlier in this decision is expressed in these terms *"pay unto the Lessor all costs charges and expenses (including legal costs and fees payable to a Surveyor) which may be incurred by the Lessor in or in contemplation of any proceedings under Sections 146 and 147 of the Law of Property Act 1925'* applies to a case where the landlord or one of its agents has decided to take forfeiture proceedings against a leaseholder and starts to take the necessary steps to do so. It will be remembered that forfeiture, which as the name implies, allows a landlord to end the lease and to recover possession of the property, is a drastic remedy, one which has been criticised by the Law Commission which recommended its abolition and replacement by termination procedures. In the residential context there are major constraints are the use of forfeiture. This includes those in sections 80 and 81 of the Housing Act 1996 which restrict the service of a forfeiture notice (under section 146 of the Law of Property Act 1925) and the restrictions in section 186(2) of the Commonhold and Leasehold Reform Act 2002 which require a landlord to seek a determination before taking of a forfeiture application.

32. We deal first with the costs claimed for the major works. In all we had photographic evidence, personal testimony from Mr Sakka who is familiar with the property and the documentation which was included in the bundle of documents. As we explained above the landlord did not have any witnesses who were involved with these works. Mr Warren has never seen the property. We did not find his comments on why the decorative works may have deteriorated so quickly (traffic noise and related problems) convincing. The fact that the decorative condition of the building appears to have deteriorated so quickly suggests that the works were inadequate. Doing the best we can with the available evidence and relying also on our own professional experience with dealing with service charge disputes we determine that a reasonable sum to be charged for these works is £6,000.

33. In this connection we also accept that the managing agents carried out the statutory consultation process required by section 20 of the 1985 Act and we conclude that a reasonable sum for carrying out this work is the sum of £345 (inclusive of VAT).

34. As to the management charges we have concluded that, based on the evidence and on our own professional experience, we determine that a reasonable charge for managing a building of this size and location should be be based on a charge of £200 per flat. The evidence shows that the appointed managing agents operate in Yorkshire, not Greater London and they employ people to deal with the property on an ad hoc basis. In other words, there appears to be no one person with responsibility for managing the premises. Moreover, on balance we accept the complaints made about the poor performance of the managing agents.

35. We turn now to the costs of insuring the building. The current arrangements, whereby the former freeholder arranges the insurance, is, in our experience unusual. As this was part of the sale of the freehold it is reasonable to assume that this was retained for commercial reasons. To put it another way it is reasonable to conclude that the insurance is arranged at a profit to the landlord and or its insurance brokers.

36. As they can recover the full costs of their outlay in arranging insurance for the building from the landlord, there is, on the face of it, little incentive for them to obtain the most competitive price. The landlord is entitled under the lease to recover the costs of the insurance as a service charge. However, it must, under the 1985 Act be reasonable. It is unfortunate, to say the least, that the managing agents have been unable to obtain any information on what efforts have been made to test the market or the commission that is received.

37. The leaseholder obtained his own quotations. Mr Warren fairly made the point that these quotations may not be valid as the company who gave the quote may not have had all the information (such as claims records) and as a result these quotations may not be truly comparable.

38. However, Mr Warren seems to us to be in a difficult position for the reasons set out in paragraph 35 above. In the absence of information on any

market testing or the commission received it is very difficult for him to defend the reasonableness of the current insurance costs. As we pointed out during the hearing our own professional experience in considering insurance costs in cases under the 1985 Act allied with Mr Sakka's research leads us to conclusion that they are too high. Making allowances for the difficulties of obtaining a valid comparable we have decided that a reasonable figure for the insurance is the sum of £2,500.

39. These conclusions apply to all of the three service charge accounting periods in dispute.

Costs issues

40. Finally, there are three costs issues on which we must make a determination. We deal first with the claim for administration costs. Here we have considered and we have been guided by the two decisions cited in paragraph 29 above. The most recent decision in *Barrett* in which the Upper Tribunal distinguished the earlier Court of Appeal decision in *Freeholders of 69 Marina* is particularly instructive. **The wording of the forfeiture costs provision in this case closely resemble that in *Barrett* and there is no evidence that the calibrated procedures for the recovery of unpaid or late payment of charges are anything other than that, which is to say, they represent the managing agents's procedures for the recovery of unpaid charges. Mr Warren told us that he believes that all such steps are taken in contemplation of a forfeiture claim. In practice, however, we consider it unlikely in the extreme that his staff who administer the scheme and who send out reminders do so as part of a plan to bring a forfeiture claim.**

41. **As the Upper Tribunal put it in *Barrett* the forfeiture costs lease provision (which is a very common clause in all leases) allows the landlord to recover its costs in preparing a forfeiture notice under section 146 of the Law of Property Act 1925 and other steps whether it proceeds to a court claim for forfeiture or not.**

42. **As we have decided that these charges are not recoverable we do not have to consider whether charges made by managing agents amount to legal costs or not.**

43. **To summarise, the landlord's claim for these costs is not allowed.**

44. **The landlord also seeks an order for costs under regulation 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 which allows this tribunal to order one party to pay the other's costs if they have acted unreasonably in bringing, defending or conducting proceedings.**

45. **Mr Warren submitted that one of the statements made by Mr Sakka was served late as a result of which the landlord was put to**

additional and unnecessary costs which could have been avoided. In response, Mr Sakka denies these complaints.

46. As we emphasise in all the directions we give, specific directions should be adhered to. In practice parties often fail to meet directions in time or at all. We can, for example, deal with such a failure by refusing to allow a party to rely on a statement or a report that is submitted late with the result that the other party has little or no opportunity to respond.

47. As to the background to our new power under regulation 13 we have the following general comments to make. Before this new costs power came into effect the tribunal had power to make costs under paragraph 10, Schedule 12 of the Commonhold and Leasehold Reform Act 2002 limited to a maximum order of £500 (or other amount to be specified in procedure regulations). Under rule 13 of the new rules there is no upper limit on the amount of the costs that can be ordered.

48. The tribunal system is sometimes referred to as a 'cost-free' jurisdiction for, unlike court proceedings, the losing party cannot be ordered to pay the successful party's legal costs. Common sense and experience has shown that leaseholders may have been deterred from using litigation to assert their rights by the prospect of losing the case and having to pay the other party's costs. This may have been one of the reasons for the transfer of jurisdiction over residential leasehold disputes, such as disputed service charges, from the county court to the tribunal. Another relevant factor is that, an order can be made under section 20C of the 1985 Act to prevents a landlord from seeking to recover any professional costs it incurred in proceedings before the tribunal as a future service charge even where the leaseholder has been successful in full or in part in the tribunal. To complete the picture, the tribunal can order one party to reimburse the other for the fee payable in making an application. These points apart the tribunal has no powers to order one party to pay the legal costs of the other.

49. These brief comments lead us to the conclusion that costs orders under rule 13 should only be made in exceptional cases where a party has clearly behaved unreasonably. This is because the tribunal remains essentially a costs-free jurisdiction where an applicant should not be deterred from using the jurisdiction for fear of having to pay the other party's costs should she or he fail in their application. Rule 13 costs should, in our view, be reserved for cases where on any objective assessment a party has behaved so unreasonably that it is only fair and reasonable that the other party is compensated by having their legal costs paid.

50. We do not think that Mr Warren has made out such a case here. This claim for costs is, therefore, rejected.

51. As to the third costs issue raised, in the circumstances of the case we could see no reason to make an order limiting the landlord's recovery of any professional costs under section 20C of the 1985 Act. In reaching this conclusion we make no findings at whether the landlord has power to include such costs in a future service charge nor whether the costs of using a managing agent are recoverable. It must also be mentioned that the reasonableness or the recovery of any such costs must are matters that can be challenged by leaseholders under section 27A of the 1985 Act.

52. Finally, we direct that a copy of this decision is to be sent to the Croydon County Court together with the court file which was sent to us.

Professor James Driscoll

Appendix of the 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
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.
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.
But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

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 leasehold valuation 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 a leasehold valuation tribunal;
(b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation 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.

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.

Schedule 11, Commonhold and Leasehold Reform Act 2002

Meaning of "administration charge"

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.

Reasonableness of administration charges

2

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

3

(1)

Any party to a lease of a dwelling may apply to a leasehold valuation tribunal for an order varying the lease in such manner as is specified in the application on the grounds that—

(a)

any administration charge specified in the lease is unreasonable, or

(b)
any formula specified in the lease in accordance with which any administration charge is calculated is unreasonable.
(2)
If the grounds on which the application was made are established to the satisfaction of the tribunal, it may make an order varying the lease in such manner as is specified in the order.
(3)
The variation specified in the order may be—
(a)
the variation specified in the application, or
(b)
such other variation as the tribunal thinks fit.
(4)
The tribunal may, instead of making an order varying the lease in such manner as is specified in the order, make an order directing the parties to the lease to vary it in such manner as is so specified.
(5)
The tribunal may by order direct that a memorandum of any variation of a lease effected by virtue of this paragraph be endorsed on such documents as are specified in the order.
(6)
Any such variation of a lease shall be binding not only on the parties to the lease for the time being but also on other persons (including any predecessors in title), whether or not they were parties to the proceedings in which the order was made.
Notice in connection with demands for administration charges
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.
Liability to pay administration charges
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).
Interpretation
6
(1)
This paragraph applies for the purposes of this Part of this Schedule.
(2)
"Tenant" includes a statutory tenant.
(3)
"Dwelling" and "statutory tenant" (and "landlord" in relation to a statutory tenant) have the same meanings as in the 1985 Act.
(4)

"Post-dispute arbitration agreement", in relation to any matter, means an arbitration agreement made after a dispute about the matter has arisen.

(5)

"Arbitration agreement" and "arbitral tribunal" have the same meanings as in Part 1 of the Arbitration Act 1996 (c. 23).