



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

Case reference : **LON/00AR/LSC/2022/0004**

**HMCTS code
(paper, video,
audio)** : **V: CVPREMOTE**

Property : **First Floor Flat, 393 Rush Green Road,
Romford RM7 09J**

Applicant : **London and Capital Housing Ltd**

Representative : **Mr S Stern (of Fountayne Managing
Ltd)**

Respondents : **(1) Mr R Jacob
(2) Ms S Rory**

Representative : **Mr R Jacob in person**

Type of application : **For the determination of the liability to
pay service charges under section 27A of
the Landlord and Tenant Act 1985**

Tribunal members : **Judge S Brilliant
Ms S Coughlin MCIEH**

Venue : **10 Alfred Place,
London WC1E 7LR**

Date of decision : **01 November 2022**

**Dated of corrected
decision** : **15 February 2023**

DECISION
corrected under rule 50

Description of hearing

This has been a remote video hearing which has been not objected to by the parties. The form of remote hearing was by video V: CVPREMOTE. The documents that we were referred to are in a bundle totalling 248 pages.

Decision of the tribunal

The tribunal determines that the following sums are payable by the respondents in respect of the following service charges:

	2019/2020	2020/2021	2021/2022
Communal lighting.	£0.00	£0.00	£0.00
Fire safety assessment.	£103.50	£106.50	£150.00
General maintenance.	£60.00	£5.00	£125.00
Roof maintenance.	£123.50	---	£125.00
Insurance.	£206.80	£213.42	£225.00
Bank charges.	£45.00	£45.00	£45.00
Accounts.	£60.00	£300.00 £150.00	£300.00 £150.00
Management fee.	£100.00	£100.00	£100.00
Gardening.	---	---	£75.00
Window cleaning.	---	---	£50.00

The application

1. The applicant landlord seek a determination pursuant to s.27A of the Landlord and Tenant Act 1985 as to the amount of service charges payable by

the respondent tenants in respect of the service charge years 2019/2020, 2020/2021 and 2021/2022 (interim).

The background

2. The property which is the subject of this application is a first floor flat (“the flat”) in a two-storey house (“the house”) which has been converted into two flats. The communal area is a small hallway providing access to both flats (“the hallway”). The house is managed by Fountayne Managing Ltd (“the managing agents”).

3. 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.

4. The respondents hold a long lease of the flat which requires the applicant to provide services and the respondents to contribute towards their costs by way of a variable service charge. The specific provisions of the lease will be referred to below, where appropriate.

The hearing

5. The applicant was represented by Mr S Stern (of the managing agents). The first respondent appeared on behalf of the respondents.

The issues set out in the Scott Schedule

6. Directions were given on 21 January 2022. The parties were directed to compile and fill in a Scott Schedule, which they have done.

7. The Scott Schedule identified the relevant issues for determination as follows:

- (a) communal lighting (all three years);
- (b) fire safety assessment (all three years);
- (c) general maintenance (all three years);
- (d) roof maintenance (2019/2020 and 2021/2022 only); a
- (e) insurance (all three years);
- (f) bank charges (all three years);
- (g) accounts (all three years);

- (h) management fee (all three years);
- (i) estate gardening (2021/2022 only);
- (j) window cleaning (2021/2022 only).

The lease

8. The lease of the flat is dated 17 January 2019 (“the lease”). The parties to these proceedings are the original parties to the lease.

9. Paragraph 31 of the fourth schedule to the lease contains a covenant by the respondents to pay the interim charge and the service charge as defined in the seventh schedule.

10. The fifth schedule of the lease contains covenants by the applicant, amongst other things, to insure the house, keep the house in repair and keep the hallway lit.

11. The sixth schedule sets out the items falling within the service charge. These include the matters set out above, as well as the engagement of surveyors or agents to manage the house and the common parts, the engagement of accountants for preparing or auditing the service charge accounts and supplying the necessary certificates, and bank charges incurred in connection with any expenditure forming part of the service charge.

12. The seventh schedule sets out the machinery for collecting the service charge.

13. The respondents are required to pay 50% of the service charges relating to the house.

The witnesses

14. Mr Stern of the managing agents gave evidence on behalf of the applicant. Mr Jacob give evidence on behalf of the respondents.

(a) communal lighting (all three years)

15. The communal lighting consists of a single light bulb in the hallway of the house operated from a time lag switch. There is no separate landlord’s supply for the hallway, and the applicant does not pay any utility company for the electricity supply to the hallway

16. Instead, responsibility for paying this bill lies with the lessee of the ground floor flat whose supply of electricity includes the lighting in the hallway.

17. The applicant deems the annual cost of the supply of electricity to hallway at £60.00. It then demands £30.00 from the respondents, and reimburses that sum to the lessee of the ground floor flat.

18. Under this arrangement the applicant is not in our judgment providing any services to the respondents. It is a matter for the lessees to come to an arrangement between themselves as to how the supply of electricity to the hallway is to be divided between themselves. Accordingly, we do not allow recovery of the sums.

(b) fire safety assessment (all three years)

19. The respondents accept the liability to pay £103.50 for the service charge year 2019/2020. We find that the demand for £106.50 for the service charge year 2020/2021 is reasonable.

20. As to the interim demand for £285.00 for the service charge year 2021/2022, we note that none of the previously recommended work has been done, and we consider that there is no need for a further assessment until the work is done. The building consists of two one bedroom flats with very limited common parts. The sum demanded includes the cost of emergency lighting which has not been recommended in either report. Accordingly, we reduce the amount to £150.00 per flat to allow for the provision of three interlinked alarms.

(c) general maintenance (all three years)

21. In the service charge year 2019/2020 we allow £10 for the cutting of keys to the entrance door. We allow the claim for the out of hours managing service in the service charge years 2019/2020 and 2020/2021.

22. We allow the charge of £125.00 on account for repairs in the service charge year 2021/2022.

(d) roof maintenance (2019/2020 and 2021/2022 only)

23. This is work properly undertaken by the applicant. We allow the charge of £123.50 for roof maintenance and repairs in the service charge year 2019/2020.

24. We allow the charge of £125.00 on account for roof maintenance and repairs in the service charge year 2021/2022.

(e) insurance (all three years)

25. We allow the charge of £206.80 for insurance in the service charge year 2019/2020 (the inclusion by mistake of the demolished garage is of no

significance to the amount charged).

26. We allow the charge of £213.42 for insurance in the service charge year 2020/2021.

27. We allow the charge of £225.00 on account for insurance in the service charge year 2021/2022.

(f) bank charges (all three years)

28. The applicant is entitled to charge for the cost of a separate bank account. We allow the charge of £45.00 for bank charges in the service charge year 2019/2020.

29. We allow the charge of £45.00 for bank charges in the service charge year 2020/2021.

30. We allow the charge of £45.00 on account for bank charges in the service charge year 2021/2022.

(g) accounts (all three years)

31. The applicant is entitled to charge for the cost of the professional preparation of accounts and their certification. We allow the charge of £60.00 for the preparation of accounts in the service charge year 2019/2020.

32. Based on our expertise and experience we consider an annual charge of £300.00 to be reasonable. We will allow £300.00 for the preparation of accounts in the service charge year 2020/2021.

33. We similarly allow the charge of £300.00 on account for the preparation of accounts in the service charge year 2021/2022.

(h) management fee (all three years)

34. The applicant has failed to disclose any invoices relating to the management fees, nor a copy of the management agreement. We were told by Mr Stern that there is a contract between the applicant and the managing agents for three years, rolling over annually thereafter. There was no consultation process.

35. This agreement appears to be a qualifying long term agreement and the contribution of the tenants is limited under s.20 Landlord and 10 1985. In these circumstances, we allow £100.00 for management fees in the service charge year 2019/2020, £100.00 for management fees in the service charge year 2020/2021, and £100.00 on account for management fees in the service charge year 2021/2022.

(i) estate gardening (2021/2022 only)

36. There is a report from Scriptex Services Ltd dated 08 June 2022 [191] referring to six visits. There is no evidence of gardening in the service charge years 2019/2020 or 2020/2021. We consider that a reasonable annual cost of the gardening would be £75.00 per flat.

37. Accordingly, we allow £75.00 on account for gardening in the service charge year 2021/2022.

(j) window cleaning (2021/2022 only)

38. We allow £50.00 on account for window cleaning in the service charge year 2021/2022, since the previous years indicate that window cleaning is only carried out the rare intervals and only to the front of the house.

Name: Simon Brilliant

Date: 01 November 2022 15
January 2023

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

