

**IN THE UPPER TRIBUNAL (LANDS CHAMBER)**



**UT Neutral citation number: [2018] UKUT 182 (LC)  
UTLC Case No: LRX/125/2017**

**TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007**

*LANDLORD & TENANT – Service charges – communal heating system – liability to contribute to costs of heating by estoppel – whether liability terminated by disconnection of heating system to individual flat – Landlord & Tenant Act 1985, ss. 18, 19, 27A*

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE FIRST-TIER  
TRIBUNAL, PROPERTY CHAMBER (RESIDENTIAL PROPERTY)**

**BETWEEN:**

**NICHOLAS SAUNDERSON**

**Appellant**

**and**

**CAMBRIDGE PARK COURT RESIDENTS ASSOCIATION LIMITED**

**Respondents**

**Re: Flat 1, Cambridge Park Court,  
Cambridge Park,  
Twickenham,  
Middlesex TW1 2JN**

**Before: His Honour Judge Hodge QC**

**Sitting at The Royal Courts of Justice, Strand, London WC2A 2LL**

**on**

**17 May 2018**

**The Appellant** appeared in person

**The Respondent** did not appear and was not represented

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The following case is referred to in this Decision:

*Roundlistic Ltd v Jones* [2016] UKUT 325 (LC)

## DECISION

### Introduction

1. This is an appeal from a decision of the First-Tier Tribunal ('the FTT') dated 29 March 2017 following a consideration of the matter, on the papers and without a hearing, on 27 February 2017. Before the FTT the appellant tenant, Mr Nicholas Sanderson, had sought a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") as to the amount of service charges which he was liable to pay to the respondent management company (and freeholder) in respect of his long leasehold residential flat at 1 Cambridge Park Court, Twickenham, Middlesex (the Flat') in respect of each of the service charge years 2014/15, 2015/16 and 2016/17. The total amount in dispute was £5,008. Neither party had requested an inspection and the FTT did not consider that one was necessary given the issues in dispute. Having heard written evidence and submissions from the parties, and having considered all of the documents provided, the FTT determined that the sum of £5,008 was payable by the appellant.

### Background

2. The FTT set out the background to the dispute, and the issues arising, at paragraphs 3 to 9 of its Decision. The Flat is a three bedroom flat contained within a 1930s' purpose built block of 36 flats of varying sizes. The appellant holds a long lease of the Flat, granted on 18 August 1976, which requires the landlord to provide services, and the tenant to contribute towards their costs by way of a variable service charge. Put simply, it was the tenant's case that the Flat had been disconnected from the communal heating and hot water system in March 2014, with permission from the landlord, following problems with the supply of heating from the communal system. The appellant had since been charged the full contribution to the cost of the heating and hot water, but he said that he should contribute only 5% to reflect the benefits he received from the heating to the common parts. The actual cost of the heating and hot water provision was not in dispute.

3. The issue therefore identified by the FTT was whether the appellant was liable to contribute towards the full cost of the heating and hot water provision or some lesser sum from March 2014, being the date when he had installed his own gas boiler in the Flat, to the year ending 2016/17, in the total cost of £5,008.

### The FTT's Decision

4. The FTT set out the appellant's case at paragraphs 10 to 17 of its Decision and the respondent's case at paragraphs 18 to 24. The FTT's decision and its reasons were set out at paragraphs 25 to 33. Both parties had agreed that the original Lease made no provision in relation to the supply of heating and hot water and that there was no obligation on the tenant

to pay for such services. The FTT was told, and it accepted, that all of the leases were in similar terms. The FTT first considered whether there was any obligation on the part of the appellant to contribute towards the cost of the oil which was in dispute. The FTT agreed that the original Lease, a Deed of Variation and subsequent Surrender and Re-grant were all silent on the issue of any obligation on the part of the landlord to supply heating and hot water and the lessee's obligation to contribute to the cost of them. However, the FTT understood that since the grant of the original Lease there had been communal plant at the property and that heating and hot water had been provided by the landlord and it had been indemnified for the cost thereof by the lessees. The FTT found it to be the case that since the assignment of the Flat to the appellant in 1994, the cost of oil had been included in the service charge and that the appellant had contributed to it, apparently without previous challenge. On the information before the FTT, there had been no dispute between the parties (or in fact by any of the other lessees) as to the obligation to contribute to the cost of the heating and hot water. Having considered the conduct of the parties, it was the FTT's view that the parties had interpreted the provisions of the original Lease as to require the landlord to supply heating and hot water, and for the lessees to reimburse the landlord in relation to that cost.

5. If the FTT were wrong in reaching that conclusion, it considered that the appellant would in any event have been estopped from claiming that the original Lease had not entitled the landlord to recover the cost of providing the heating and hot water given the circumstances of the case, the appellant having contributed towards the cost since 1994 without disputing any liability under the terms of his lease.

6. The FTT went on to consider whether the appellant remained liable to contribute towards the costs of the heating and hot water after his disconnection from the communal system in March 2014. Further to clause 3(a) of the original Lease, the appellant had covenanted to pay the service charge costs. The percentage had been varied by the Deed of Variation to 3.05%. On the appellant requesting its consent to install an individual boiler, the respondent had confirmed that in principle it was willing to grant its consent on the basis that the appellant agreed to continue to pay his full service charge contribution. The appellant had rejected this request and there appeared to the FTT to have been no further correspondence in relation to any conditions to be attached to any consent. The appellant had then gone on to install his own boiler and DMG Delta, the landlord's agents, had been involved in the disconnection of the system. It was said to be unclear as to whether they had simply been inspecting the works (as submitted by the landlord) or had carried out the disconnection, but the quotation in the bundle was said to suggest the latter.

7. As there had been no variation to the Deed of Surrender and Lease, the FTT held that the appellant remained liable to contribute to the service charge in the percentage rate set of 3.05%. The appellant's percentage had clearly been set out in that document and there was said to be no mechanism by which that could be varied or by which any of the costs could be recouped from the other leaseholders. Had the appellant been obliged to pay a reasonable proportion rather than a fixed percentage, the FTT said that he might have succeeded in arguing that it would not be reasonable to continue to pay towards the cost of the heating and hot water. However, where fixed percentages were set out in a lease, the FTT did not have the

jurisdiction to vary the amount payable as a fixed proportion under s.27A. The FTT commented that it might have been wise for the parties to have considered an application for a variation of the lease as at the date the works had been carried out. In any event, if the position were not regularised by independent boilers being installed in all of flats, the parties were invited to consider whether an application for a lease variation was advisable.

8. In an Appendix to its Decision, the FTT reproduced the terms of ss.18,19 and 27A of the 1985 Act, which it referred to as “the relevant legal provisions”. S.18 provides a definition of “service charge” for the purposes of the relevant provisions of the 1985 Act. It means (so far as material) “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 ... and (b) the whole or part of which varies or may vary according to the relevant costs”. By s.19(1) relevant costs are to 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 provision of services ..., only if the services ... are of a reasonable standard, and the amount payable shall be limited accordingly.” S.27A permits an application to be made to the FTT for a determination whether a service charge is payable and, if it is, as to – ... (c) the amount which is payable.”

9. On 2 November 2017 the FTT considered the appellant’s request for permission to appeal and determined that it would not review its decision and it refused permission to appeal. Its reason was that the FTT said that it had considered and taken into account all of the points before it in the paper submissions and the appellant was now seeking to reframe his challenge under s.19(1)(b) of the 1985 Act. The FTT was not prepared to allow the appellant “to have a second bite of the cherry”. The FTT’s original decision was said to have been based on the evidence before it and the appellant was said to have raised no legal arguments in support of his application for permission to appeal. For the benefit of the parties and of this Tribunal (assuming that further application for permission to appeal were made), the FTT set out its comments on the specific points raised by the appellant in the application for permission to appeal in an appendix to its further decision, as follows:

- (1) As to the complaint that the FTT had not considered whether the service was of a reasonable standard under s.19(1)(b) of the 1985 Act, the FTT’s response was that the appellant had not raised any challenge nor adduced any evidence in relation to whether the service had been of a reasonable standard. The challenge had been based on the fact that the appellant considered that he should not have been required to contribute since his disconnection as he had derived no benefit. In any event, no evidence had been provided to support his contention that the service had not been of a reasonable standard.
- (2) As to the complaint that there had been contradictions in statements made by the respondent, the FTT said it had made its decision on the totality of the evidence before it, the most salient of which had been recorded in its decision.

- (3) As to the complaint that the FTT had drawn incorrect inferences, the FTT denied that it had drawn any incorrect inferences in relation to the letter of 25 April 2014 [sic] and subsequent correspondence and it relied on its decision in that regard.
- (4) As to the complaint that the application had been treated as one for the variation of the service charge proportion rather than one of financial redress, the FTT's decision was said to have recorded that the actual amount of the charges had not been in dispute but rather that the challenge was as to the "payability" of the charges on the basis that the applicant no longer derived any benefit from the services since his disconnection. The appellant was also said not to have argued that the standard of the service had been poor.

### **Permission to appeal**

10. On 16 February 2018 the Upper Tribunal (Martin Rodger QC, Deputy Chamber President) granted permission to appeal but he refused to permit the appellant to adduce any further evidence. The reason given for granting permission to appeal was that the appellant's proposed grounds of appeal were arguable. In particular, it was said to be arguable that, in the absence of any express obligation to contribute to the costs of communal heating, the appellant's implied liability was conditional on the service being provided. It was also said to be arguable that the FTT ought to have considered the application of s.19(1)(b) of the 1985 Act. The appeal was directed to proceed as a review of the decision of the FTT, to be conducted under this Tribunal's standard procedure. This Tribunal directed that the appellant's application for permission to appeal was to stand as his appellant's notice and grounds of appeal.

### **The hearing**

11. The appeal was heard on Thursday 17 May 2018. The appellant appeared in person. The respondent did not attend. Whilst noting that (1) the standard-form letter from this Tribunal to the respondent dated 18 April 2018 notifying it of the hearing had stated in terms that participants were advised to arrive a little before the appointed time on the day of the hearing, and (2) the tribunal administration had heard nothing from the respondent to indicate that its representative might be running late, this Tribunal waited almost half an hour before commencing to hear the appeal. That more or less coincided with the receipt by the tribunal administration of an email from a representative of the respondent's property management company indicating that the respondent's board agreed that the hearing should go ahead without its attendance. Both parties had submitted written skeleton arguments which this Tribunal had had the opportunity of pre-reading. The Tribunal is grateful to both parties for their helpful written submissions. This Tribunal is also grateful to the appellant for his well-structured and well-presented oral submissions, which were restrained and to the point.

## The appellant's submissions

12. The appellant's case is that he should not have been required to pay a full contribution to the communal heating costs in the block of flats after he had installed his own heating system with the respondent's consent. He had been obliged to do this because in October 2008 the communal system had effectively ceased to reach the Flat, having previously been satisfactory, and it had never been restored. In his written skeleton argument, the appellant advances four grounds of appeal, as follows:

- (1) In the absence of an express obligation to contribute to the cost of communal heating, the implied liability was conditional on the service being provided.
- (2) The FTT should have considered whether the service was of a reasonable standard under s.19(1)(b) of the 1985 Act.
- (3) Contradictions in versions of events given by the respondent were not addressed by the FTT, and it gave no reasons for preferring one version to another.
- (4) The FTT should have considered the application as one for financial redress rather than a variation of the service charge proportion.

13. Although not expressly identified as a discrete ground of appeal until his skeleton argument, this Tribunal considers that the first of these grounds of appeal is properly maintainable by the appellant. The application for permission to appeal to this Tribunal included reference to the argument that it had been "unreasonable to be required to pay for the communal heating costs after the disconnection". When giving permission to appeal, the Deputy Chamber President had identified as arguable the proposition that "in the absence of any express obligation to contribute to the costs of communal heating, the appellant's implied liability was conditional on the service being provided". The appellants' proposed ground No 1 does no more than repeat and adopt one of the Deputy Chamber President's reasons for giving permission to appeal.

14. In his written skeleton argument, the appellant advances the following submissions in support of each of these grounds of appeal as follows:

- (1) **Ground 1:** The FTT had concluded that the previous conduct of the parties in supplying and paying for heating obliged the appellant to continue to pay for it after its disconnection and that he was estopped from claiming otherwise. The appellant submits that such an obligation ceased when the respondent failed to supply heating in 2008 and was unable to restore it thereafter. Estoppel by convention could not succeed where the party asserting estoppel has withdrawn from the mutual conduct giving rise to the convention.
- (2) **Ground 2:** If the charge for heating was considered as equivalent to a service charge, then it must fall under the provisions of the 1985 Act. On the evidence, and admissions by the respondent, the service of heating to the Flat was not of a reasonable standard under s.19(1)(b) and should have been limited accordingly.

- (3) **Ground 3:** The version of events set out in the respondent’s property managers’ letter to the other flat owners of 14 May 2015 was contradicted by their letter to the appellant (and copied to the FTT) of 27 January 2017. The FTT should have preferred the earlier “uncoloured” version or should have provided reasons for rejecting it.
- (4) **Ground 4:** The application to the FTT was made after the decision to decommission the communal system had been taken. It was necessarily time-limited to the 3 years between May 2014 and April 2017 when the decommissioning was due to start. The FTT should have treated the application as one for financial redress, including s.19(1)(b), rather than as one seeking a change in the percentage payable under the service charge, which was an impossible hurdle in law for the appellant to pass.

15. In his oral submissions in support of **ground 1**, the appellant referred the Tribunal to passages in the decision of this Tribunal (HHJ Huskinson) in *Roundlistic Ltd v Jones* [2016] UKUT 0325 (LC), emphasising (by reference to previous key case law authority): (1) that the effect of an estoppel by convention is to preclude a party from denying the assumed facts or law if it would be unjust to allow him to go back on the assumption: see [47]; and (2) that it must be unjust or unconscionable for the person alleged to be estopped to assert the true legal (or factual) position: see [48] at (v). If a number of radiators were removed from a communal heating system, then (as a matter of physics) the fuel required to heat the remaining radiators would be reduced so there was no detriment to the respondent in the appellant’s refusal to pay. There was, however, a clear detriment to the appellant in being required to pay for heating oil but receiving no heat to his radiators. It would therefore no longer be unjust for the appellant to deny any liability to pay for the communal heating system. The appellant referred to, and relied upon, a passage at para 8-020 of *Handley: Estoppel by Conduct & Election*, 2<sup>nd</sup> edn, under the heading “Termination of Convention”, as follows:

“Parties who establish an ad hoc convention can terminate it. If one party resiles the other can also, and this will terminate the convention and the estoppel it would have supported. Neither party can then unilaterally reinstate the convention.”

When the respondent was unable to provide the appellant with heat, the conventional arrangement established between 1994 and 2008 was broken and thereafter the parties found themselves in a new legal relationship. The FTT’s interpretation of the appellant’s common law estoppel obligations could not be sustained.

16. The appellant addressed the respondent’s argument that he had established a new conventional arrangement by continuing to pay for heating after it was no longer being supplied to the Flat. First, as the appellant had pointed out at paragraph 13 of his statement of case to the FTT, for two years the appellant had refunded his tenants of the Flat for using electric radiators and had withheld the sum in question (£900) although this had subsequently been paid. Secondly, the appellant’s object had been to try to get the heating restored to the Flat. He had not wanted to disconnect the Flat from the communal heating system. There had



been attempts by the respondent to improve the position which had been implemented over successive summers and which could only be evaluated over the following winter. Thirdly, this was a small block of flats and the appellant had wanted to keep on good terms with the other residents and the respondent management company.

17. On **ground 2**, the appellant submitted that an estoppel by convention could not override the statutory provisions in s.19(1)(b) of the 1985 Act. As an expert tribunal, the FTT should have had those provisions in mind when considering the standard of the heating provided to the Flat and determining the amount payable for the provision of that service even if the source of the obligation to pay was to be found in a conventional estoppel rather than the service charge provisions in the lease of the Flat. The appellant confessed that he was mystified by the FTT's claim that no evidence had been provided to support his contention that the service had not been of a reasonable standard. The appellant submitted that he had provided ample evidence, in the form of extensive correspondence, to demonstrate the inadequacy of the heating that reached Flat 1 and the attempts by the respondent to remedy the situation. The respondent's managing agents' letter to the other flat owners dated 14 May 2015 had contained a clear admission that "Flat 1 had suffered particular problems with the supply of heating and numerous attempts to address this had failed". The respondent was said by the appellant to have taken a 'casuistic' point when it pointed to the fact that the appellant's complaint related to the period from March 2014 to March 2017 after he had removed the communally heated radiators from the Flat. This was said to ignore the fact that it was necessary to look at the whole relationship between the parties when deciding whether s.19(1)(b) was engaged, and that the only reason that the radiators in the Flat had been disconnected from the communal system was because they had been receiving no heat.

18. On **ground 3**, the FTT should have preferred the account in the respondent's managing agents' letter of 14 May 2015 to the later (and inconsistent) version of events in their letter of 27 January 2017 because the earlier letter had been written (1) at a point which was closer in time to the events with which it was dealing and (2) only with the purpose of informing the other flat owners of what was happening whereas the later letter had been written two years after the first and with the express object of vindicating the respondent's position in these proceedings to the FTT. The FTT had not resolved the inconsistencies between these two versions of events. If the respondent had indeed given its consent to the disconnection of the appellant's radiators from the communal heating system (as stated in the 14 May 2015 letter) then, as that letter also expressly acknowledged, it should no longer have been possible to recover any contribution towards the cost of fuel oil or the maintenance of the communal plant from the Flat, and the appellant's claim should have succeeded. An email exchange between the parties of 26 and 27 May 2014 showed the appellant's willingness to come to an agreement about the future service charge and left matters very much up to the respondent but it had failed to engage with the appellant over the matter.

19. On **ground 4**, by the time of the application to the FTT the respondent had already decided to abandon the communal heating system and move to separate systems for each flat so there had been no point in seeking a variation of the service charge percentages. The

whole basis of the appellant's application to the FTT had been to secure the waiver of the £5,008 arrears of service charges under s.19(1)(b) of the 1985 Act.

20. As for the respondent's objection that there could be no objective definition of 'reasonable standard' in terms of the provision of heating to the Flat, this was said by the appellant to be "a bit of a myth". Even background heat had to be of a reasonable standard, yet the radiators in the Flat had been stone cold. Even in the 1930s (or 1950s) radiators had been installed in order to provide adequate heating. The appellant's parents had occupied the Flat when they had been in their 80s and they could not have survived there if the Flat had not been properly heated. The appellant had been contributing some £1,800 a year towards the cost of heating oil which hardly suggested the provision merely of background heating.

### **The respondent's submissions**

21. The respondent submits that the FTT correctly assessed the matter and that the appellant is obliged to pay in full the service charge as required by the lease of the Flat. Although there was no express obligation in the lease to contribute to the costs of the communal heating and hot water system, the costs of running and maintaining this system had been accepted by all of the lessees as a proper expense recoverable through the service charge from lessees and it was submitted that they would be estopped from claiming otherwise. In the case of the appellant, he had accepted this obligation without challenge from 1994 until March 2014 when he had removed the communal radiators and installed his own heating system. The appellant was said to assert that the heating service in his flat was unsatisfactory between 2008 and 2014, but he had continued to pay his service charge unconditionally and in full during that period and he had not since sought to challenge it.

22. The appellant's present reliance on s.19 of the 1985 Act, and its claim that the service was not of a 'reasonable standard', were said to relate to the period from March 2014 to March 2017, after he had removed the communal radiators from his flat. The communal heating system had been designed in the 1930s to provide background heat to the building as a whole, without distinction between the demised and the common parts of the building. There was said to be no temperature control in individual flats, nor any guarantees as to when, or how much, heat would be available. From the outset, all lessees had used supplementary heating as and when required. In such a system, it was submitted that there could be no definition of 'reasonable standard'. The respondent has developed its submissions in its Respondent's Notice.

### **Decision and reasons**

23. In my judgment, the FTT erred in law in its approach to this case, essentially for the reasons advanced by the appellant, with whose submissions I am in general agreement. In summary, this Tribunal considers that in the absence of any express obligation in his lease to contribute to the costs of communal heating, the appellant's conventional estoppel liability

was conditional on that heating being provided to the Flat, and that such continuing liability terminated when, through no fault on his part, the appellant disconnected the Flat from the communal heating system in response to the respondent ceasing to provide adequate heating to the Flat in and after 2008. This Tribunal also considers that the FTT ought to have considered the application of s.19(1)(b) of the 1985 Act. Had it done so, it should have concluded that since 2008 heating had not been provided to the Flat to a reasonable standard; that this had led the appellant to disconnect the Flat from the communal heating system so that this service was no longer being provided at all, still less to a reasonable standard; and that, in consequence, the appellant was no longer liable to contribute to the cost of heating the Flat after the disconnection in 2014.

24. This Tribunal considers, for the reasons advanced by the appellant and summarised in paragraph 18 above, that the FTT should have accepted the statements in the respondent's managing agents' letter of 14 May 2015 to the other flat owners (to the effect that "Flat 1 had suffered particular problems with the supply of heating and numerous attempts to address this had failed" and that in consequence the respondent had consented to Flat 1 being disconnected from the communal heating system in 2014) in preference to inconsistent statements in their letter of 27 January 2017. This Tribunal considers that irresolvable problems with the provision of heating to Flat 1 had been adequately evidenced by the correspondence produced by the appellant since November 2008. This Tribunal considers that the FTT was right to conclude (in paragraph 28 of its Decision) that the appellant was estopped by the parties' conventional dealings from claiming that his Lease did not entitle the respondent to recover the cost of providing heating and hot water. Where the FTT fell into error was in moving (in paragraph 29) to consider whether the appellant remained liable to contribute towards the costs of the heating and hot water after his disconnection from the communal system in March 2014 without considering the potential effect of the respondent's persistent failure to provide heating to a reasonable standard during the period 2008 to 2014. Consistently with the authorities identified by the appellant at paragraph 15 above, this Tribunal considers that the reasons established by the appellant for disconnecting the Flat from the communal heating system rendered it unjust to expect the appellant to continue to contribute towards the costs of fuel oil or the maintenance of the communal heating plant, as was expressly recognised in the 4<sup>th</sup> full paragraph on the 2<sup>nd</sup> page of the letter of 14 May 2015. The principle is that parties who establish a conventional arrangement by estoppel can terminate it. If one party elects to resile, the other can do likewise, and this will terminate the convention and the estoppel it would have supported. Thereafter, it is not open to either party unilaterally to reinstate the convention; this requires the consent of both parties to the estoppel. This Tribunal recognises that this situation would have rendered it necessary to revisit the percentage contribution to such costs required from the owners of the other flats in Cambridge Park Court who continued to benefit from the communal heating system; but the Tribunal can see no insuperable difficulty in viewing such an exercise as an integral part of the conventional estoppel arrangement governing each flat owner's liability to contribute towards such costs for as long as each of them continued to enjoy the benefits of the communal heating arrangements.

25. Similarly, this Tribunal considers that the FTT fell into error in failing to consider the potential application to the present case of the provisions of s.19(1)(b) of the 1985 Act. This

Tribunal regards as unfair, and as a mischaracterisation of the position, the FTT’s description of the appellant’s request for permission to appeal as an attempt to reframe his challenge under s.19(1)(b) and thereby “have a second bite at the cherry”. It was clear from the application to the FTT that the appellant was asserting that he had been given permission to install an independent heating system “because for six years the communal system failed to supply effective heat to Flat 1, and the Landlord was unable to rectify the problem”: see paragraph 3b of the lessee’s statement of case to the FTT. The FTT itself appended s.19 to its Decision as one of “the relevant legal provisions”; and, as an expert tribunal faced with an application brought by a long leaseholder acting as a litigant in person, the FTT should clearly have had its provisions, and potential application, in mind. Once, with the respondent’s consent, Flat 1 had been disconnected from the communal heating system because the respondent had proved incapable of supplying heating to the Flat to a reasonable standard, the FTT should have considered whether heating had been supplied to the Flat to a reasonable standard during each of the three service charge years after the disconnection. The only possible answer was a resounding: No. The FTT failed to have any, or any sufficient, regard to the fact that the reason why the appellant had derived no benefit from the heating after the disconnection was because he had been compelled to disconnect the Flat from the heating system because the heating provided prior to disconnection had not been of a reasonable standard and no improvement whatsoever had been in view. In these circumstances, the only reasonable disposition of the application should have been to determine that no sums should be paid in respect of the Flat for the provision of heating after the disconnection from the communal heating system.

### **Determination**

26. For the reasons stated at paragraphs 23 to 25 of this decision, the appeal is allowed.
  
27. The First-Tier Tribunal’s determination that the sum of £5,008 is payable by the appellant to the respondent is set aside.
  
28. This Tribunal determines that no sum is outstanding from the appellant to the respondent in respect of the service charge years 2014/15, 2015/16 and 2016/17.

*David R. Hodge*

His Honour Judge David Hodge QC

29 May 2018

