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LONDON RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION UNDER SECTIONS 27A & 20C OF THE LANDLORD AND TENANT ACT 1985 & SCHEDULE 11 TO THE COMMONHOLD AND LEASEHOLD REFORM ACT 2002

Case Reference: LON/00AL/LSC/2011/0866

Premises: 59 Sark Tower, Erebus Drive, London SE28 0GG

Applicant(s): Jonathan Godfrey

Respondent(s): Holding & Management (Solitaire) Limited

Representative: Peverel Property Management, Managing Agents

Date of hearing: 7 and 8 August 2012

Appearance for Applicant(s): In Person

Appearance for Respondent(s): Mr E Andresen, Solicitor, Peverel Property Management

Leasehold Valuation Tribunal: Ms F Dickie
Mr H Geddes
Mr A Ring

Also in Attendance: Ms E Beatty – Regional Manager, OM Property Management
Ms H Goldstone, Consort Property Senior Property Manager
Mr F Akele – Consort Property, Development Management

Date of decision: 3 October 2012

Decisions of the Tribunal

- (1) Other than in respect of the specific concessions made by the Respondent at the hearing, the application is dismissed. No further adjustments are to be made in addition to those already applied by the Respondent to the Applicant's account.
- (2) The tribunal has declined to determine those specific figures since it directed the Respondent to provide an apportioned adjusted figure for each of the years in dispute (2005 – 2012) but it has not done so. The Respondent has only provided total adjusted service charge expenditure. The total figure for 2008 is not calculated, and no figure is produced for any year since 2009. If the parties require a determination as to a specific figure payable by the Applicant, the Respondent must within 14 days submit to the tribunal and send to the Applicant figures for each of the seven years, showing an individual apportioned figure for the Respondent's adjusted contribution.
- (3) Administration fees sought by the Respondent in respect of enforcement action against the Applicant, applied to his account in 2010 are reduced by 25%.
- (4) The Tribunal does not make an order under section 20C of the Landlord and Tenant Act 1985. The Tribunal orders under Paragraph 10 of Schedule 12 to the Commonhold and Leasehold Reform Act that the Applicant pays costs of £200 to the Respondent.

The application

1. The Applicant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 ("the 1985 Act") and Schedule 11 to the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") as to the amount of service charges and administration charges payable by him in respect of the years 2005-2012.
2. The tribunal had issued directions at an oral pre trial review on 10 April 2012, including a direction as to the preparation and exchange of a Scott Schedule identifying the items in dispute. The relevant legal provisions are set out in the Appendix to this decision.
3. The Applicant appeared in person at the hearing and the Respondent was represented by Mr E Andressen of the managing agent Peverel.

The background

4. The premises which are the subject of this application are a two bedroom flat in a purpose built block of flats within a modern development of a number of residential blocks on communal grounds with underground car parks

comprising "Royal Artillery Quays" ("RAQ"). The Respondent is the Management Company under the lease with responsibility for the usual landlord covenants and the entitlement to collect service charges. Until July 2009 Solitaire acted as the Respondent's managing agent, since which time Consort has been acting in their place.

5. The lease is dated 28 May 2004 and is between (1) Tilfen Land Limited as Freeholder / Corporation (2) Barratt Homes Limited as Head Lessor and (3) Holding & Management (Solitaire) Limited as Management Company and (4) Jonathan Godfrey and Harry Paraskeva as Lessees.
6. The lease at paragraph 7 of the Particulars defines the "Block" by reference to the lease plan, a copy of which was provided to the tribunal. From this it is clear that both the buildings known as Sark Tower and Granary Mansion together form the Block for the purposes of the lease. These are two connected blocks with some common facilities, such as a car park and single pump room.
7. The lease at paragraph 16 of the Particulars defines the "Estate" as the land comprised in Title Number TGL171617 and TGL222080 and known as Royal Artillery Quays, Thamesmead. The Respondent provided title plans. The lease provides for the payment by the Lessees of a "Service Charge" and an "Estate Charge". The First Schedule Parts 1 and II sets out the elements of the costs included in the Service Charge and Part III the elements of costs included in the Estate Charge:
 - (i) Part I – Costs relating to Sark Tower and Granary Mansion, including the car park serving the Block.
 - (ii) Part II – Lift maintenance and associated costs which are charged only to the Lessees of flats in the main part of the Blocks who benefit from the same.
 - (iii) Part III – Estate charges are costs incurred for matters relating to the RAQ Estate as a whole including Estate wide services.
8. Owing to the change in the number of flats on the Estate, the Applicant's proportion of the Estate Charge varied – from 1/407 in the years ending 2006 and 2007 to 1/418 in the years ending 2008-2012.

Previous Proceedings

9. The Applicant had previously applied to the Leasehold Valuation Tribunal on 16 June 2011 (Case ref. LON/00AL/LSC/2011/0416) to challenge service charges for the period 2005-2011. The Respondent produced its statement of

case for that application, which was withdrawn by the Applicant, and had produced available accounts and budgets to the Respondent in August 2011.

10. The Lessees had also been parties to previous litigation in the Nottingham County Court brought by the Respondent to recover arrears on their account. In those proceedings the Respondent accepted that a debit entry on the Lessees' service charge account for "Amber Terminated Balance" in the sum of £1,120.23 was not payable, and judgment for arrears of £1900.09 was entered on 29 December 2010. The Respondent's application to strike out the present application as an abuse of process had been refused by the Leasehold Valuation Tribunal after a preliminary hearing by a differently constituted tribunal.

The Hearing

11. For each of the years in dispute the Respondent had produced audited service charge accounts or a budget. For all years except 2010 the accounts comprised one account for the Estate Charge, and one for the Block, which includes the Block's share of Estate charge. For 2010 a single set of accounts had been prepared. As well as the accounts, Mr Godfrey had been provided by the managing agent with copies of all of the invoices for service charge expenditure for the period in dispute. He had extracted the details of these invoices into a spreadsheet which had been served on the Respondent prior to the hearing. Mr Andressen had produced to the tribunal all of the invoices on this spreadsheet.
12. Photographs and plans of the subject premises being available to the tribunal, it did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.
13. The tribunal heard evidence from the Applicant and, on behalf of the Respondent, from Ms E Beatty, Regional Manager for OM Property Management, Ms H Goldstone, Senior Property Manager for Consort Property, and Mr F Akele, Development Management for Consort Property. A summary of the evidence from each is recorded in respect of each disputed item below.

Applicant's Case

"Missold Lease"

14. Mr Godfrey sought a determination as to whether he was bound by the terms of the lease, which he believes was missold to him. He believed the proportion of service charges he had to pay was unfair. The tribunal advised it had no jurisdiction on the present application to vary the lease (if indeed there were any grounds to do so), and to the extent that his case amounted to a challenge under the Unfair Terms in Consumer Contracts Regulations 1999 the Applicant is an original party to the lease who had the opportunity

individually to negotiate its terms, and in any event the tribunal found nothing in his argument persuasive that the terms were unfair.

Disputed Service Charges

15. The Applicant challenged reasonableness of service charges for the years in dispute and considered they had been improperly apportioned or wrongly charged to his block. He said he had been partially successful in previous County Court proceedings against the Respondent because there were errors in the accounts. He said the lease was complicated. He also challenged legal fees applied as an administration charge in 2009 and 2010 in addition to court fees and interest he had been ordered to pay in the County Court proceedings.
16. Mr Godfrey considered that the landlord had administered the service charges in an over complicated way, with a trail of too much paperwork disclosed late. The Respondent's statement of case and the witness statement of Ms Beatty had been received on 31 July, he said, and many documents received the Monday before the hearing. He felt it would have been easier for him to address the issues if the landlord had presented matters in a more reasonable way.
17. Mr Godfrey felt he had done his best to comply with the directions by specifying all disputed invoices in his statement of case by putting them in a spreadsheet challenging 638 invoices, giving a brief description of each. By referring to examples of these, he hoped to show that the landlord had been charging them inappropriately. He found understanding the service charges confusing and was concerned they were unreasonable.
18. The most up to date comments of each party on the Scott Schedule ordered by the tribunal were contained in two separate documents, which Mr Andressen was able to incorporate into a final Scott Schedule provided to the tribunal during the course of the hearing.
19. Mr Andressen said he had encountered difficulty in responding to the application because Mr Godfrey had extracted the invoices he disputed and did not reference them to the estate or block service charge accounts in his spreadsheet. He had been sent copies of the accounts with each cost heading tabbed and the invoices for that cost heading.
20. The general stance taken by the Respondent in these proceedings was that it had been presented with an incoherent case which was nigh on impossible to understand. The landlord produced witness statements in those tribunal proceedings in which it had attempted to explain to Mr Godfrey how his service charge accounts were made up and how to calculate his proportion. In spite of being in possession of this information, and all of the invoices and witness statements addressing the issues he had chosen to raise, he still appeared to be confused as to his liability.

21. The tribunal agreed with Mr Andressen that Mr Godfrey's case was fatally weakened by the manner in which he had prepared his case by extracting individual invoices for challenge without demonstrating how they had been charged in the accounts - whether they had been charged as Block or Estate Charges. The information provided to him in disclosure and in good time was sufficient to enable him to identify which costs had been charged under each head. However, he had removed the individual invoices from the documents supporting the accounts, disputed that they had been properly charged, but was unable to show by reference to the accounts the head under which they had been charged. This made responding to his case very challenging for Mr Andressen, since finding when and how an individual invoice had been charged in the accounts was a difficult task, and Mr Godfrey challenged over 600 of them in his spreadsheet.
22. Mr Godfrey was invited by the tribunal to be specific about the individual costs that he was disputing, and he sought to demonstrate his challenges with examples of inappropriately charged invoices. The tribunal's decision records a number of principal issues disputed, but since Mr Godfrey's challenges were in general terms any failure to record a matter challenged should not be viewed as a failure by the tribunal to have had regard to the Applicant's case.

Bin Hire

23. Mr Godfrey considered he should be liable to pay only 1/8th of the cost of bin hire for Sark Tower (£1050 plus VAT for most years). Mr Akele's evidence was that Sark, a larger block, would have about 12 bins and Granary about 7, with two recycling bins each.
24. **Tribunal's Determination.** Since the tribunal is satisfied that the definition of the Block includes Sark Tower and Granary Mansions, it is satisfied that the landlord has correctly aggregated the bin hire charges and apportioned them according to the terms of the lease.

Door Servicing and CCTV

25. Mr Godfrey thought that the door servicing, CCTV contracts and parts and labour costs were unreasonably high. CCTV maintenance cost £30,000 per year and was charged as an estate charge. He thought that it was unfair to have to pay to lease the CCTV equipment from a finance company when he had purchased his flat with CCTV equipment already installed in the estate. He did not have any evidence of alternative costs for CCTV on similar estates. He thought the maintenance and repair charges should be part of the general annual maintenance charge.
26. Ms Beatty explained that the residents did not feel that the CCTV system installed by developers had been adequate as it did not focus well at night and estate coverage was minimal. The residents wanted to upgrade so an entirely new system was installed. The CCTV equipment was now owned not leased,

but parts would need upgrading on an annual basis. Mr Andressen said that the accounts provided to Mr Godfrey showed quarterly charges for the CCTV contract plus invoices for maintenance.

27. Mr Godfrey thought telephone charges were wrongly included in entryphone costs. Ms Beatty explained that the buzzer for each flat was connected to a telephone and early on not everyone had a landline so connection to mobile phones was permitted. This was then changed to allow connection only to landlines because of the cost implications.
28. Mr Akele said there are two gates per building to the car park located under a raised garden area, and four single pedestrian doors, as well as access from the ground floor lobbies to the car part and all of these doors are part of the maintenance contract.
29. **Tribunal's Determination.** The tribunal found no evidence of improper or unreasonable charges for door servicing and CCTV. There was no merit in Mr Godfrey's challenge, which was supported by only a generalised attack on charges which he felt were high.

Concierge and Cleaning

30. Mr Godfrey considered these costs unreasonable. Ms Beatty said that in 2009 when Consort took over the management of the estate, the concierges already in place were working 12 hours per day 6 days per week. There were issues with security and vandalism so the resident's association wanted to have a greater on site presence and asked for 24 hour concierge. Accordingly, the costs had increased.
31. Ms Beatty also said that cleaning costs included capital expenditure in the 2010 accounts because in 2009 when the new agent took over they directly employed the previous agency staff and had to purchase cleaning equipment for their use. She confirmed that the material costs were apportioned per block. There are now two more or less full time cleaners.
32. **Tribunal's Determination.** Again, the tribunal was not persuaded by Mr Godfrey's generalised concerns that concierge or cleaning charges were too high or had been improperly apportioned.

Window Cleaning

33. Mr Godfrey considered window cleaning charges improper and unreasonable. Ms Beatty gave evidence that, as Sark Tower was larger than Granary Mansions, the cost of cleaning its windows would be higher. Ms Beatty believed that window cleaning costs had changed because the cleaning was done every six months now instead of three, but more windows had been included in the cleaning (some having been excluded previously). She said

that the agent re-tendered for charges such as gardening and window cleaning every year.

34. Mr Akele explained there were glazed sections on the side of the buildings called pods which were not being cleaned under the previous window cleaning contract and residents were complaining. The window cleaners could not reach them without installing new eye bolts. When these were installed the number of windows being cleaned under the contract increased and frequency of cleaning was decreased to twice a year as a cost saving measure.
35. **Tribunal's Determination.** Mr Godfrey's challenge to window cleaning costs was without merit.

Lift Maintenance

36. Mr Godfrey thought these charges were unreasonable. Ms Beatty said that there were different contracts with Otis, at different prices, for lift maintenance, which is charged for the individual building, not the block.
37. **Tribunal's Determination.** Mr Godfrey's challenge to lift maintenance costs was without merit.

Energy Prices

38. Referring to EDF invoices for the year ending March 2009, Mr Godfrey said these indicated an annual consumption cost of about £12,000 which he believed to be block expenditure for the lifts and communal lights, but that expenditure in previous years showed a charge of about £50,000. Ms Beatty said that, concerning a large variance in electricity invoices, that there had been a period at the beginning when EDF had not invoiced, and then it had billed a large amount. Recently however the agent had done an analysis of all electrical invoices and there was a credit to the electricity costs for the block service charge.
39. Mr Andressen observed that the invoices to which Mr Godfrey was referring were for the landlord's meter at Sark Tower. There are two meters in each block, one of which (known as the landlord's meter) records everything except the fire lift and the other meter records the fire lift.
40. **Tribunal's Determination.** The tribunal is satisfied that the meter to which Mr Godfrey referred was just for Sark Tower, but the costs in the service charge account are the combined electricity charges for Granary Mansions and Sark Tower. The accounts show that £26,000 was charged for the block service charge accounts for the sample year in question which is in line with the consumption on the single meter referred to. The tribunal finds no evidence that the electricity costs are unreasonable or improperly charged and dismisses this part of the application.

Challenges to Individual Invoices

41. Carpet shampooing at Albert House for £95 plus VAT from 25 April 2005 which Mr Godfrey said he had taken from a bundle labelled Estate Costs. The Respondent conceded that this was an inappropriate charge. **Tribunal's Determination.** Item not payable as a service charge.
42. Internal lighting. Mr Godfrey believed he had been charged for internal lighting on several other blocks, but the invoice he produced was missing its second page. Mr Andressen said that the complete invoice showed charges in respect of four different blocks, only one of which was for Sark Tower (for £303.62) and charged to the block service charge. **Tribunal's Determination.** The landlord has correctly charged these disputed costs for internal lighting.
43. Overhill Developments - Replacement lighting and Starters. Mr Godfrey believed that a charge of £885.74 had been made through the block service charge relating to work to three blocks including Tideslea, where the caretaker's flat is located. Mr Andressen was unable to find this invoice, with the apportioned amounts that would be noted on it, in either the block or estate service charge. He was unable to comment on the challenge without cross reference by Mr Godfrey to the item in the accounts he had been provided with. **Tribunal's Determination.** Mr Godfrey had not established that this invoice had been inappropriately charged. Work to the caretaker's flat would be chargeable as an Estate Charge.
44. Recovery Fees. The landlord had charged Mr Godfrey various fees as administration charges. Judgment had been obtained against him in the Nottingham County Court on 22 December 2010 for £1900.09 plus interest of £213.23 and fees of £495 (solicitor's fees £80, court fee £80, allocation fee £35 and hearing fee of £300). The tribunal advised Mr Godfrey that it had no jurisdiction in relation to matters that had been determined by the County Court. Mr Godfrey disputed additional interest and costs charged to him as administration charges. He thought the landlord had acted unreasonably in taking the legal proceedings against him.
45. Mr Andressen said that the court fees in the order reflected the small claims limit, but that the tenant in the Third Schedule of the lease had covenanted to pay expenses including solicitor's costs on a full indemnity basis. However, he did not have a breakdown of the solicitor's fees available for the tribunal – they appeared on a bulk invoice from their solicitors JB Leach. Mr Andressen said that there had been arrears of £9316.74 on his account after adjustment of the Amber balance. **Tribunal's Determination.** The landlord had not shown what work its solicitors had charged for, or at what rate. It is necessary for the tribunal to take a broad brush view in the circumstances. It determines that the administration charges that are the subject of these proceedings (£143.75 in 2009, £721 and £887.50 in 2010), where not the subject of a County Court order, be reduced by 25%.

Miscellaneous Credits

46. Mr Andressen said that an agreement had been reached between the managing agent and recognised residents' association to reduce expenditure for certain periods and by certain amounts, and credits to both the estate and block service charges had been applied accordingly. He resisted treatment of these reductions as concessions against unreasonable charges.
47. Mrs Goldstone explained that when Consort took over from solitaire in 2009 the residents had been charged a huge debit for overspend for the year ending 2008 and the resident's association asked to see every single invoice. It then took 18 months of negotiations while they examined all the years to look at overcharged electricity, VAT rate, climate levy charges, water VAT and any other invoices they felt were wrong for electricity water and buildings insurance. The Respondent employed someone to go through all electricity invoices and he came to a £110,000 over charge. Leaks had been allowed to occur and buildings insurance had gone up and around £30,000 was agreed on premium refunds. £20,000 on estate charges and £13,000 on pump repairs had been allowed. The total agreed for refund was £288,000 across all of the blocks and was applied in June 2011. Mr Godfrey received £751.16 against his block service charge and £47.85 against his estate service charge in respect of these credits.
48. Year ending March 2008. An estate credit of £20,000 had been agreed against expenditure of £205, 901.25. The Applicant's proportion was 1/407. A total of £8,219.13 was credited against block expenditure (an element of which was water pump repairs). The Applicant's proportion is 0.9299.
49. Other Concessions. Wrongly charged invoices identified in the present proceedings were conceded as follows:
50. Year ending 2006 – general repairs £111.63. £94 for a TV socket repair which should be recharged to the individual flat concerned. Charges of £23.50 and £158.63 for different blocks had been wrongly charged.
51. Year ending 2007 – adjustments had been made to the block general repairs charges to represent a reduction of £23.50 from one invoice which should have been split with another block and £70.50 for a duplicated invoice.
52. Year ending 2008 – a deduction from estate general repairs of £211.50 had been made.
53. Year ending 2009 – an adjustment on block general repairs of £82.35 had been made.

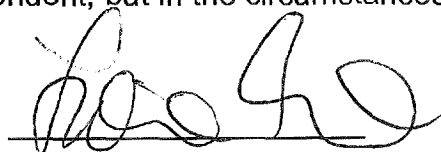
Determination

54. Using a word often repeated by Mr Godfrey in these proceedings, the Applicant was confused about his service charge liability. However, whilst there was a degree of complexity to the accounts, this is simply a function of the premises being within a large estate benefiting from numerous services provided by the landlord. Having considered the evidence and submissions the tribunal finds that the service charges sought by the landlord are payable by the Respondent in full. The Applicant has failed to show that any of the service charges he has been asked to pay are unreasonable. The Respondent conducted its own detailed enquiries leading to a number of individual invoices being conceded – this had not been a result of specific invoices being identified by Mr Godfrey. His case had been made up of suspicion, misunderstanding and general feeling that the service charges are too much. This, the tribunal finds, is not good enough to satisfy any burden of proof.

Application under s.20C and for costs

55. The Applicant made an application under for an order under section 20C of the 1985, but owing to his lack of success in this application, the tribunal declines to make such an order.
56. The landlord applied for a contribution to its costs of £500 under Paragraph 10 of Schedule 12 of the Commonhold and Leasehold Reform Act 2002, on the ground that the Applicant had acted frivolously, vexatiously or otherwise unreasonably in connection with the proceedings. The tribunal considers that Mr Godfrey's application demonstrated a lack of understanding of his service charge liability, but takes the view that all of the information necessary to Mr Godfrey's understanding of that liability has been in his hands for some time, and at least since the first Leasehold Valuation Tribunal application was withdrawn. His disputes were very general in nature and lacked particularity. The Respondent was required to go to considerable expense in responding to his case. Mr Godfrey was unable to make reference to particular disputed costs in the accounts, as he was directed to do at the pre trial review, and the tribunal struggled to tease out his complaint.
57. Having given careful consideration to all of the circumstances, the tribunal concludes that Mr Godfrey has behaved unreasonably in bringing these proceedings, but that he honestly lacked insight as to the fact. The tribunal concludes that it is appropriate that a costs order be made in favour of the Respondent, but in the circumstances it should be limited to £200.

Chairman:



Date:

3 October 2012

Appendix of 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
 - (b) 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.
- (2) 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.
- (5) 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.
- (3) 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.

Leasehold Valuation Tribunals (Fees)(England) Regulations 2003

Regulation 9

- (1) Subject to paragraph (2), in relation to any proceedings in respect of which a fee is payable under these Regulations a tribunal may require any party to the proceedings to reimburse any other party to the proceedings for the whole or part of any fees paid by him in respect of the proceedings.
- (2) A tribunal shall not require a party to make such reimbursement if, at the time the tribunal is considering whether or not to do so, the tribunal is satisfied that the party is in receipt of any of the benefits, the allowance or a certificate mentioned in regulation 8(1).

Commonhold and Leasehold Reform Act 2002

Schedule 11, paragraph 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.

Schedule 11, paragraph 2

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

Schedule 11, paragraph 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).

Schedule 12, paragraph 10

- (1) A leasehold valuation tribunal may determine that a party to proceedings shall pay the costs incurred by another party in connection with the proceedings in any circumstances falling within sub-paragraph (2).
- (2) The circumstances are where—
- (a) he has made an application to the leasehold valuation tribunal which is dismissed in accordance with regulations made by virtue of paragraph 7, or
 - (b) he has, in the opinion of the leasehold valuation tribunal, acted frivolously, vexatiously, abusively, disruptively or otherwise unreasonably in connection with the proceedings.
- (3) The amount which a party to proceedings may be ordered to pay in the proceedings by a determination under this paragraph shall not exceed—
- (a) £500, or
 - (b) such other amount as may be specified in procedure regulations.
- (4) A person shall not be required to pay costs incurred by another person in connection with proceedings before a leasehold valuation tribunal except by a determination under this paragraph or in accordance with provision made by any enactment other than this paragraph.