



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

Case Reference : **MAN/00CC/LSC/2015/0085**

Property : **Apartments 12 and 30 Regent Court, Royal Street, Barnsley, S70 2ED**

Applicant : **Regent Court Barnsley Management Company Limited**

Represented by : **Blue Property Management UK Limited**

Respondent : **Mr Ian Benton**
Represented by : **Mr B Titterington, solicitor**

Type of Application : **Service charges, Section 27A of the Landlord and Tenant Act 1985.**

Tribunal Members : **Judge C. P. Tonge, LLB, BA.**
Mrs S. A. Kendall, BSc, MRICS.
Mrs M. B. M. Mangles, BA.

Date : **1 February 2016**

DECISION

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The background to the application

1. This case comes before the Tribunal by way of an order of transfer from District Judge Kirkham made at Sheffield County Court on 16 February 2015, requiring this Tribunal to determine whether the service charges involved in two cases before him are payable and reasonable.
2. These two cases both involve service charges of £4532.94 and relate to apartments 12 and 30 “the properties” at Regent Court, Royal Street, Barnsley, S70 2ED “the complex”. The County Court Claims are both issued on 31 March 2014, therefore this Tribunal must limit the case to service charges that have been demanded on or before this date.
3. The Applicant, Regent Court Barnsley Management Company is represented by Blue Property Management UK Limited.
4. The Respondent, Mr Ian Benton is the long leaseholder of both apartments in “the property”.
5. “The complex” is comprised of two sets of apartments, both of which share some common areas and facilities, but have separate common entrances to each block and separate common access ways within each block. The first block of apartments contains 12 apartments in a block that has 3 apartments per floor in a 4 story block. The second block is known as the Post Office Block and has 4 stories with a further 4 apartments, making a total of 16 apartments. It includes a gated court yard area, part of which is used as a car park and facilities grouped round that court yard.
6. Directions were issued on 9 September 2015 and as a result of these Directions a hearing bundle has been prepared of 480 pages in length.
7. The Tribunal inspected “the complex” on 18 January 2016 with a hearing after the inspection. The hearing taking place at the S. S. C. S. Tribunal Building, Barnsley. It was not possible to conclude the case on that day and the Tribunal met again, without the parties present, to determine the issues in the case on 1 February 2016.

The inspection

8. The Tribunal inspected “the complex”, the inspection commencing at 10 am on 18 January 2016. Mr David Garvey, a property manager was present on behalf of the Applicant. The Respondent was present along with his solicitor, Mr Titterington.

9. Each block of apartments has a separate common entry door with key pad entry systems, requiring the use of a code, the entrances being off the same pavement a short distance from each other.
10. Dealing first with the block containing 12 apartments. Having entered the common entrance hallway, it was evident that the fire alarm was malfunctioning. There was no fire, but the alarm control panel was making a buzzing noise. The alarm was not sounding. The Applicant's representative conceded that the fire alarm is not working properly.
11. It is also evident that there is a problem with the common lighting system and the Applicant's representative added that this system has been known to be faulty for some time. The movement sensors that should act as remote switches for the lighting are not working and the lights should therefore be on permanently, although the Tribunal noted that some lights were not working at all.
12. There are 12 letter boxes to one side in this hallway that can each be locked with a key giving the impression that the letter boxes provide a secure place in which the post person can deposit letters. However, it is a simple exercise to extract a letter from a locked letter box. They are not fit for the purpose for which they are provided.
13. The hallway gives access to 3 ground floor apartments. There is a large stain on the floor covering. Wall heaters are provided. Smoke alarms that are linked to the fire alarm are in position. The stairs that provide access from one floor to the next are carpeted. The block has a fire escape door giving access to a wooden decked area which has a wooden bench for residents to sit on. The decked area is above the level of the court yard and is surrounded by a metal railing. Access is then provided to the court yard by means of metal steps down to the court yard. The decked area was not clean.
14. The Post Office Block of apartments contains 4 apartments. This has its own fire alarm system that is linked to the malfunctioning fire alarm system. There are another 4 letter boxes that are not properly secure.
15. The Tribunal noted a hole in a wall at ground level and the Applicant's representative said that this had been caused by staff who had been investigating damp. Wall heaters are again provided. The Tribunal switched one of these on and found that it did not work.
16. The Tribunal inspected the court yard area and saw that the corners were dirty. This area appears to be under the control of Applicants even though there is a building on the opposite side of the court yard and forming a boundary to the court yard that is not part of "the complex".

17. There is a stand in this area to leave pedal cycles against.
18. Large rubbish bins for the use of the residents within the complex are kept in this area. Similar bins are also provided in this area for the use of persons occupying the building that is not part of "the complex", namely Howard and Company Solicitors and Aquilla.
19. The Tribunal counted 18 marked out parking areas, although the Applicant's representative told the Tribunal that these were not all allocated to residents of "the complex". Four are being used by the solicitors and two by Aquilla. The remainder will be used by residents by rental or lease. The electric gates are fob activated and fobs are only issued to persons entitled to park in the area or that need to have access through the gates to the area for other reasons. All residents of "the complex" have access to the court yard area so that they can use "the complex" rubbish bins and have access to the water stop cocks.
20. "The complex" water stop cocks are positioned against one long wall of the court yard under wooden cupboard doors that are not locked so that they are pulled to open them for access. However, the Tribunal noted that persons were being permitted to park in front of these doors and that if these car park spaces were in use this could make access to the stop cocks difficult.
21. "The complex" has a caretaker who works at "the complex" for three and a half hours per week. His store is also off the court yard. There is also access to electricity meters to monitor the electricity supplied to the tenants of "the complex".

THE LAW

Landlord and Tenant Act 1985

Section 18, meaning of service charge and relevant costs.

Briefly this defines a service charge and associated costs as the variable cost of providing the service.

Section 27A, Liability to pay service charges: jurisdiction

- (1) An application may be made to the appropriate 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 the appropriate 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.

Section 19, Limitation of service charges: reasonableness.

- (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.

Relevant provisions of the lease

22. A copy of the lease for apartment 12 is exhibited (bundle pages 436 to 464). Regent Court Barnsley Management Company is made a party to the lease (bundle, page 438 and 440). The Respondent obtained a lease for the remainder of a 125 year period, commencing on 1 January 2006, to apartment 12. It is agreed that the lease for apartment 30 is drafted in similar terms so far as service charges are concerned.
23. The Respondent is liable to pay one fourteenth of the Management Costs (bundle, page 439). There is a variation provision incorporated. In fact the share that the Respondent is required to pay of the service charges is less than this proportion at one sixteenth or 6.25%.
24. Management costs are given a wide definition (bundle, page 441) and include expenses described in Schedule 5. On the same page in the bundle the service charge year is defined as beginning on 1st of January each year.
25. At clause 3.1.1 of the lease the Respondent covenants pay rent in equal instalments on 1 January and 1 July and at clause 3.1.2 the Respondent covenants to pay service charges in accordance with Schedule 5 (bundle, page 444).

26. At clause 3.1.18 of the lease the Respondent covenants to indemnify the Landlord and management company in respect of any breach by the tenants of the covenants (bundle, page 444).
27. The covenants binding upon the Applicant are set out in clause 4 and they contain the usual repair, cleaning and maintenance provisions (bundle, page 449).
28. Insurance is dealt with in clause 7 and the management company covenants to keep "the complex" insured.
29. Schedule 5 is entitled Service Charges and covers all the service charges that are involved in this case, requiring payment by the Respondent on the two dates per year already specified above (bundle, page 461 and 462).
30. The terms of the leases are therefore such that the Applicant is required to provide the service charges that this case deals with, being the normal services at this type of site and the Respondent is required to pay a proportion of the reasonable cost of providing them. If at any stage the Tribunal is of the opinion that a charge that the Applicant seeks to raise is not payable under the lease, the Tribunal so conclude as it deals with that part of the case.

Written evidence

Summary of the written case on behalf of the Applicant

31. The Applicant's statement of case states that in respect of each apartment, as at the date of the statement, namely 22 September 2015, the outstanding service charges are £6849.84. The statement points out the clauses of the lease that make service charges payable and contends that the Respondent is required to pay these two sums of money (bundle, page 1).
32. The bundle contains accounts, budgets, demands and supporting invoices. The vast majority of the evidence dealing with 2013 and 2014, very little dealing with the period of time in which Wilbys were management agents or 2012.
33. The bundle contains a Scott Schedule that had been started by the Respondent, indicating items that were in issue and completed by the Applicant. The Scott schedule challenged items in 2013 and 2014. It did not challenge the part of the case relating to the service charges owed to Wilbys or 2012 (bundle, page 477 to 480).

34. The Applicant's statement for the hearing attaches documents that seek to increase the outstanding service charges in respect of each apartment to £7809.51 (bundle, page 426 and 427).
35. The Applicant did not include in the bundle the County Court Claim Forms, Statement of Case or any other document of this nature from which the figure claimed at the County Court could easily be found, but such documents were produced separately within days of the start of the hearing, when Tribunal Judge Tonge required them to be produced. It was at this stage that the exact value of the claim as it had been before the County Court could be established, namely £4532.94 per apartment.
36. Photographs are exhibited to show the ways in which this management agent is dealing with the problems at "the complex" (bundle, page 465 to 476).

Summary of the written case on behalf of the Respondent

37. The Respondent's statement of case which came before the Tribunal as a separate document from the bundle is dated 30 October 2015. It makes only one complaint relating to Wilbys, that rubbish was not removed from the car park and it makes no complaint relating specifically to 2012.

The hearing preliminary issues

38. The hearing commenced at 11.30 am on 18 January 2016, at the S. S. C. S. Tribunal Building, Barnsley. On behalf of the Applicant Mr Peter Evans, a Director of Blue Property Management UK Limited and Tamara Gifford and David Garvey, property managers for the same company were present. The Respondent was also present, represented by his solicitor, Mr Titterington.
39. The Tribunal sought to establish the extent of the claim that is in fact relevant to the transfer from the County Court. Evidence in the bundle went well beyond the date that the County Court Claim had been issued, by which time the matters to be considered in those proceedings were fixed. The County Court Claim in both cases limits the case before the Tribunal to unpaid service charges in the sum of £4532.94. At its highest the bundle seeks to put the Respondent's unpaid service charge debt at £7809.51

40. Mr Evans on behalf of the Applicant agreed that the figure of £4532.94 could not be found within the bundle. He took the Tribunal to a financial statement relating to apartment 12 (bundle, page 73). Referring to that page he sought to limit the Applicants claim to the amount of £4532.34, this line is dated 28 March 2014. The County Court Claim was issued 3 days after this.
41. The Tribunal therefore decided that the Tribunal could only consider service charges that had been demanded by 31 March 2014 to a value of £4532.34. As a result a good measure of the claim in the bundle against the Respondent could not be proceeded with.
42. The second preliminary issue related to the extent of the case before 2013, namely, unpaid service charges to Wilbys and unpaid service charges during 2012. The same statement (bundle, page 73) refers to unpaid service charges relating to the period in which Wilbys were the management agents of £1345.59 as at 19 March 2012, less the balancing credit later paid over by Wilbys of £595.31, making an alleged debt of £750.28. To be added to that are the alleged unpaid service charges demanded for 2012, being two charges of £397 per apartment. A total of £1544.28 to cover the “two areas”.
43. On behalf of the Applicant it was submitted that the Scott Schedule commenced by the Respondent to show which part of the Applicant’s case is challenged does not relate to these “two areas” of the case. As a result, the Applicant has prepared his case for this hearing on the basis that these “two areas” of service charges are not in dispute, they have not been challenged and must therefore be payable under the terms of the lease and be reasonable. The Applicant sought to rely on Direction 5 which requires the Respondent to particularise the areas in dispute (bundle, page 432 to 435).
44. The Respondent agreed that the Scott Schedule does not challenge these “two areas”, but sought permission to go beyond the Scott Schedule to areas that had not previously been challenged. The Respondent sought to justify this on the basis that the Applicant was in breach of the Direction 1 (bundle, page 432 to 435).
45. The Directions carry the standard warning that failure to comply with them may result in a detriment to the party’s case.
46. The Respondent gave evidence that the Applicant had not complied with Direction 1 in that the Applicant had not provided the required financial information to cover the “two areas. As a result of this breach, the Respondent did not have enough information to know that these “two areas” were part of the claim against him. They should have been challenged by the Respondent, but his failure to do so was not his fault.

47. Mr Evans was given permission to adduce a screen shot of a letter sent to him by his office, dated 22 September 2015, addressed to the Tribunal and indicating that the Applicant had served documents in compliance with Direction 1. Mr Evans gave evidence that at that time he had served the first part of the bundle, up to page 84 on the Respondent. This gave the Respondent notice as to the full extent of the case, because the information is on a statement (bundle, page 73).
48. Further, Mr Evans also relied upon the income and expenditure account ending 31 May 2013 (bundle, page 11). This has the service charge total and has a breakdown of costs in the document for the prior year ending 31 May 2012. It was suggested that by considering both of these documents together it was clear that the claim included these “two areas” and that a break down had been provided to cover 2012. Demands for payment for these amounts were served within that financial information (bundle, page 28 to 31).
49. The Respondent challenged this evidence and stated that he was not served with these documents. He accepted that he had known that his service charges were being apportioned by the management company at 6.25% (Scott Schedule in the bundle, page 480). He was asked how he knew this and he referred to his lease which states that his contribution will be a one 14th share. Mr Evans pointed out that 6.25% is in fact a one 16th share. The lease requires a higher proportion to be paid than is actually being collected. Hence the Respondent would not have known by consulting his lease that he was being asked to contribute at 6.25%, but would have known this if he had read the documents that had been served.
50. The Tribunal also notes that letters before action sent on 6 March 2014 (bundle, page 81 and 82) indicate that the sum owing at that date was £4046.86 per apartment. For these figures to be anywhere near correct the “two areas” would have to be part of the claim that was being made.
51. The Tribunal went into private session to consider these matters.
52. The Tribunal preferred the evidence given by Mr Evans on this point, supported as it is by the numerous documents as considered above. Whereas the evidence of the Respondent has no support and the way he dealt with apportionment of the service charges at 6.25% did not assist his case.
53. The Tribunal is satisfied that the Applicant did serve documents 1 to 84 on the Respondent, before the Respondent prepared his part of the Scott Schedule. This was sufficient to inform the Respondent that if he wanted

to challenge the “two areas” he should have done so in the Scott Schedule.

54. The Tribunal is therefore satisfied that the Applicant is not in breach of the Directions, but the Respondent is in breach of paragraph 5 of the Directions by not setting out the areas that are in dispute, namely the “two areas”. He cannot blame that breach upon the conduct of the Applicant. There are therefore no grounds to justify permitting the Respondent to challenge the “two areas”. As such the Tribunal concludes that the Scott Schedule must stand and the case will be limited to evidence relating to issues raised on the Scott Schedule.

Oral evidence on behalf of the Applicant

55. The Applicant confirmed that there is a care taker, Andrew Mellor, for “the complex” who is employed by an associated company, Blue Property Maintenance UK Limited. That company invoices the management company for his contracted time at £17 plus VAT per hour. However, if he does extra work outside his contracted three and half hours per week then his employers will charge £35 per hour for that extra time. There is a similar arrangement for the services of Tony Simmons, an electrician who is charged for at £60 per hour or £120 per hour. The electrician might have to travel from Manchester. These men also work at other sites that are also managed by this management company.
56. The cleaners are also employed by Blue Property Maintenance UK Limited.
57. Blue Accounting is another associated company that helps by preparing the accounts for an accountant to check and sign.
58. Brief evidence was given relating to some of the many matters upon the Scott Schedule and where that evidence has assisted the Tribunal to make a determination it will be referred to in this decision at that stage.

Oral evidence on behalf of the Respondent

59. Brief evidence was given relating to some of the many matters upon the Scott Schedule and where that evidence has assisted the Tribunal to make a determination it will be referred to in this decision at that stage.

The deliberations

60. The Tribunal has already considered the terms of the leases for the two apartments in “the property” and looked through the service charges challenged in the Scott Schedule. They all come within the services which can be charged for under the leases.

61. The starting figure with which the Tribunal is concerned is one of £4532.34, including VAT per apartment. The Tribunal will now consider each charge or invoice put in issue by the Scott Schedule to decide whether or not these charges are reasonable.
62. Management charges are put in issue for 2013 and 2014 and it is convenient to deal with both together.
63. The Respondent gave evidence as to the work that is done by the management company. It covered all the usual work that the Tribunal would expect a management company to carry out. The charges are £225 plus VAT per apartment per year. The Tribunal reminds itself as to the faults that have been described in the inspection, but even so the Tribunal concludes that this figure is within the range that the Tribunal accepts as being reasonable for management of “the complex”.
64. The Tribunal will deal with the Scott Schedule now for 2013, but before it can do so the Tribunal has to make a general determination as to what is a reasonable figure to pay for the services of the maintenance man Andrew Mellor and the electrician Tony Simmons. The Tribunal accepts the evidence of the Respondent on this point that the services of these individuals are being charged at too high a rate.
65. The Tribunal wishes to make it clear that it much prefers to see a management agent engaging contractors in an arm’s length situation after competitive tenders. There is no reason why a maintenance contract cannot be put out for tender. Once that has been done the tenants are more likely to conclude that the contract gives value for money. This is not being done, the management company is using an associated company for day to day maintenance and cleaning. Further, the Tribunal notes that on the face of the invoices cleaners are being paid to clean a lift that is not present and the maintenance man is being paid for maintenance of a lift that is not present.
66. The Tribunal therefore has to look carefully at what the associated Blue Property Maintenance UK Limited is charging for the services that it provides. The Tribunal, amongst other matters, takes into consideration those rates of pay for electricians on The Joint Industry Board web site where it is stated that the average pay for an electrician in 2013 was less than £13 per hour. This is in accord with the Tribunal’s general view that the charges being made for the work of these two men is well above any reasonable level of charge. It cannot be fair or reasonable for the management company to engage its associated company to provide these services at grossly high fees. The Tribunal’s overriding objective is to deal with the case fairly and justly (Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013/1169)).

67. The Tribunal reminds itself that maintenance has been found to be poor, with a faulty fire alarm, faulty lighting and faulty heating.
68. The Tribunal, in dealing with the Scott Schedule determines that the charging structure as described in paragraph 55 above is unfair and unreasonable. The electrician and maintenance men do on occasion work together. The electrician appears to have been engaged on work knocking render off a wall, painting, investigating damp and handing out gate fobs. When painting the hourly rate for both men becomes £40 per hour. The Tribunal notes that this is inconsistent accounting that just cannot be justified. It would be more accurate to describe Mr Tony Simmons as a maintenance man who also deals with electrical problems.
69. It is also unfair and unreasonable to require the long leaseholders to pay for men to travel from Manchester. A local firm should have been used. The Tribunal has decided to deal with both contracts for services in the same way. The Tribunal will reduce labour for both to £17 per hour or £35 per hour if work is done out of normal working hours, e.g. at night or at the weekend. These fees being at the top end of the spectrum of fees that the Tribunal considers reasonable for maintenance work, in which the Tribunal includes work done by both men of whatever type.
70. The second area challenged in the Scott Schedule is entitled “2013 repairs”. The Tribunal accepts the evidence of Mr Evans to the effect that the £13523 relates to a full year, whereas the figure of £4625 relates to a half year. In any event The Respondent clearly intended this to be an over view of the position, because the Scott Schedule goes on to select the individual invoices that are challenged.
71. The third area challenged in the Scott Schedule is entitled “repairs analysis” and refers to thirteen invoices that relate to changing light bulbs. The invoice numbers are shown on the Scott Schedule (bundle, page 477). The individual invoices are in the bundle (page 280, 281, 282, 261, 267, 268, 269, 277, 266, 265, 274, 275, 276).
72. The only charge for labour is in invoice 17328 (bundle, page 280) and that involves a £60 charge for work lasting up to an hour by Tony Simmons. The Tribunal reduces this to £17, plus VAT £3.40, total £20.40. This is a reduction of £51.60 including VAT, from the service charges calculation. Otherwise the Tribunal determines that these charges are all reasonable.
73. The fourth area challenged in the Scott Schedule refers to invoice 17880 (bundle, page 258). This is an out of office telephone charge regarding a resident making a telephone call to Andrew Mellor, who answered the telephone and advised the caller that Blue Property Management could

not open the apartment in question to switch off hair straighteners that had been left switched on, because they do not have keys and it is not a management problem.

74. The Tribunal agrees, this is not a management problem and it should not be included in the calculation of service charges. This fee of £60 plus VAT of £12, total £72, is not chargeable as a service charge under the terms of the lease.
75. The fifth area challenged in the Scott Schedule refers to invoices 17881(bundle, page 262) and 17791(bundle, page 260). This relates to work done by both Andrew Mellor and Tony Simmons preparing to paint and painting at "the complex". The Respondent states that this should have gone out to private tender and that the price is excessive. He could have got the work done for £750.
76. Blue Property Maintenance UK Limited charged a total of £1897.04 for these two men at either £34 per hour or £175 per day for gates and fencing to be prepared for painting and then painted.
77. The Tribunal agrees with the Respondent, this should have been subject to private tender and the work is massively overpriced. The Tribunal accepting the Respondent's evidence reduces the cost of these two invoices taken together to £750 including VAT and thereby removes from the service charge calculation the sum of £1147.04, including VAT.
78. The sixth area challenged in the Scott Schedule refers to invoices 18236 (bundle, page 270) and 18237 (bundle, page 271). These invoices need to be dealt with separately.
79. Invoice 18236 (bundle, page 270). This is work done by Tony Simmons and relates to his checking the lights at the Post Office Block after a complaint had been made by the tenant of apartment 36. He found no fault. The Tribunal notes that the invoice states that Mr Simmons was on site when this complaint was made. The invoice charges £180 for labour, plus VAT of £36, total £216. The Tribunal takes the view that this should have been part of normal maintenance and as such the whole charge is unreasonable. The Tribunal removes from the service charge calculation the sum of £216, including VAT.
80. Invoice 18237 (bundle, page 271). This is work done by Tony Simmons when he responded to a call from the resident of apartment 36 reporting that the fire alarm was sounding, when there was no fire. The Applicant gave evidence that Mr Simmons had to respond from home in an out of hours call out. Mr Simmons found that the alarm had been activated by cooking smoke from apartment 36. He re set the alarm. The charge for labour only is £240 plus VAT of £48, total £288. The invoice stating that

the labour is for three hours at £120 for the first hour and £60 per hour for the second and third hours.

81. The Tribunal accepts that it in these circumstances, in which a fire alarm might need urgent repair, it was reasonable for the electrician to respond in an out of hours visit. The Tribunal concludes that this took three hours because the electrician had to travel from home. The Tribunal considers this charge for labour to be wholly unreasonable and will reduce it to the already decided rate of £35 per hour, three hours is £105, plus VAT of £21, total £126. (Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £162, including VAT.
82. The seventh area challenged in the Scott Schedule refers to four invoices 18455 (bundle, page 272), 18460 (bundle, page 272), 1359 (bundle, page 263) and 1360 (bundle, page 278). These all relate to the gate giving vehicular access to the parking area. The Respondent comments that it would have been cheaper to use a gate specialist to resolve this problem.
83. The Tribunal notes that an independent contractor was used in two of these invoices 1359 (bundle, page 263) and 1360 (bundle, page 278). The Tribunal considers these to be reasonable.
84. The Tribunal notes that Tony Simmons dealt with the other two items of work 18455 (bundle, page 272), 18460 (bundle, page 272).
85. In relation to invoice 18455, this involved Tony Simmons in a call out for two hours work. The Tribunal determines that the labour charge of £180 is unreasonable and reduces this to a rate of £35 for two hours, £70, plus VAT of £14, total £84. (Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £110, plus VAT of £22, total £132.
86. In relation to invoice 18460, this invoice involved Tony Simmons in two hours work and this is charged at £120, plus Vat of £24. The Tribunal determines that the labour charge is unreasonable and reduces this to a rate of £17 for two hours, £34, plus VAT of £6.80, total £40.80. (Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £86, plus VAT of £17.20, total £103.20.
87. The Scott Schedule now moves on to 2014. The first area is cleaning. The Applicant pays Blue Property Maintenance UK Limited to clean “the complex” at £220 per month, plus VAT of £44, total £264 per month, £3168 per year. The Respondent states that this is excessive for a small block of flats.

88. The Tribunal refers to its earlier comments about a lack of arm's length tendering and agrees that for the cleaning work that has to be done this is a charge that is well above the level of what can reasonably be charged. The Tribunal thinks that cleaning for four hours per week, at £10 per hour, for 52 weeks is the correct determination to make. That is £2080, plus VAT of £416, total £2496 per year.
89. The date of the issue of the County Court Claim is 31 March 2014, so there are only three months of cleaning in that year that can have been included in the service charges that the Tribunal must consider. The Tribunal allows £208 per month including VAT, whereas the Applicant charges £264 per month, including VAT. The Tribunal removes from the service charge calculation the sum of £56, including VAT, per month. There are three months therefore the Tribunal removes from the service charge calculation the sum of £168, including VAT.
90. The second area challenged in the Scott Schedule refers to management fees and these have already been dealt with.
91. The third area challenged in the Scott Schedule refers to "2014 repairs analysis. All electrical, gate maintenance, gate security and door security." The Respondent states that this work should all be carried out by specialist contractors, that too many bulbs are being replaced and they are far too expensive.
92. The Tribunal notes that invoices are being challenged in this section of the Scott Schedule, but there are no specifics. The Tribunal's overriding objective is to be fair and just (Rule 3 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013/1169)). As such the Tribunal felt compelled to consider these invoices up to the date that the County Court Claim was issued.
93. The Tribunal considered the following invoices and found them to be reasonable (bundle, page 340, 347, 348, 350, 351, 353, 356, 359, 362 and 364). The Tribunal considered a further six invoices.
94. Invoice 18871 (bundle, page 341) is an invoice that involves a labour charge of £35 for Tony Simmons. The Tribunal reduces this to the reasonable sum of £17 (Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £18, plus VAT of £3.60, total £21.60
95. Invoice 18872 (bundle, page 342) is an invoice that involves a labour charge of £70 for Tony Simmons. The Tribunal reduces this to the reasonable sum of £34, plus VAT of £6.80 (Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £36, plus VAT of £7.20, total £43.20.

96. Invoice 19395 (bundle, page 343) is an invoice that involves an unreasonable labour charge of £105 for three hours at a rate of £35 per hour, we are not told who did the work. The Tribunal reduces this to the reasonable sum of £51, plus VAT of £10.20, total £61.20(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £54, plus VAT of £10.80, total £64.80.
97. Invoice 19426 (bundle, page 345) is an invoice that involves an unreasonable labour charge of £350 for three hours at a rate of £35 per hour or £175 per day both Tony Simmons and Andrew Mellor working. We accept the evidence of Mr Evans that this would have been a total of 10 hours worked. The Tribunal reduces this to the reasonable sum of £170, plus VAT of £34, total £204(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £180, plus VAT of £36, total £216.
98. Invoice 19244 (bundle, page 354) is an invoice that involves an unreasonable labour charge of £70 for two hours at a rate of £35 per hour, Tony Simmons did the work. The Tribunal reduces this to the reasonable sum of £34, plus VAT of £6.80, total £40.80(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £36, plus VAT of £7.20, Total £43.20.
99. Invoice 18765 (bundle, page 358) is an invoice that involves an unreasonable labour charge of £95 for two hours at a rate of £60 for the first hour and then £35 per hour, Andrew Mellor did the work. This is said to be a call out, but in office hours. The Tribunal reduces this to the reasonable sum of £34, plus VAT of £6.80, total £40.80(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £61, plus VAT of £12.20, Total £73.20.
100. Invoice 20153 (bundle, page 365) is an invoice that involves an unreasonable labour charge of £95 for two hours, one hour at £60 and one hour at £35, we are not told who did the work. The Tribunal reduces this to the reasonable sum of £34, plus VAT of £6.80, total £40.80(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £61, plus VAT of £12.20, Total £73.20.

101. The fourth area covered in the Scott Schedule refers to invoice 19419 (bundle, page 344). This is an invoice including £360 in labour. The invoice does not state who did this work but the Tribunal accepts the evidence of Mr Evans that it was the electrician Tony Simmons who attended out of hours to make safe an area of render that was falling of the wall close to the fire escape door giving access to the decked area. Blue Property Maintenance UK Limited has charged £120 for the first hour and £60 for the four subsequent hours. The Tribunal reduces this unreasonable charge, but in doing so applies the out of hour's rate of £35 per hour for five hours work. The reasonable sum is therefore £175, plus VAT of £35, total £210(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £185, plus VAT of £37, Total £222.
102. The fifth area covered in the Scott Schedule refers to invoice 19426, (bundle, page 345). This has already been dealt with.
103. The sixth area covered in the Scott Schedule refers to invoice 19390, (bundle, page 352). This involves a labour charge of £35, at a rate of £35 per hour, when Andrew Mellor fitted a hose pipe to the water tap in the caretaker's room, so that it can be used in the court yard and on the decked area. The Tribunal reduces this unreasonable charge to the reasonable sum of £17, plus VAT of £3.40, total £20.40(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £18, plus VAT of £3.60, total £21.60.
104. The seventh area covered in the Scott Schedule refers to invoice 19508, (bundle, page 355). This involves an unreasonable labour charge of £105 at £35 per hour. The Tribunal reduces this to the reasonable sum of £51, plus VAT of £10.20, total £61.20(Paragraph 69, above). The Tribunal removes from the service charge calculation the sum of £54, plus VAT of £10.20, total £64.80.
105. The eight area covered in the Scott Schedule refers to invoice 19473, (bundle, page 357). This is an invoice for £168 and a labour charge for labour only for both Tony Simmons and Andrew Mellor who are both charged for at the rate of £35, both working for two hours. They investigated mould on the inside wall of apartment 22 and concluded that it was due to condensation. The Tribunal determines that this damp, being internal to apartment 22 and caused by the style of living of that resident, is not a charge that can be considered to be chargeable under the terms of the lease. The Tribunal removes from the service charge calculation the sum of £168, including VAT.

106. The ninth area covered in the Scott Schedule refers to invoice 19422, (bundle, page 361). This is an invoice for a parking pass for the resident of apartment 26 of the complex at a charge of £104.75, plus VAT of £20.95, total £125.70.
107. The Tribunal accepts the evidence given by Mr Evans on behalf of the Applicant that as a result of rendering work being done at “the complex” it was necessary to use scaffolding and that this blocked the entrance to the car park that is situated within the court yard in “the complex”. As a result the car park could not be used for a short while and those persons who had a right to use the car park were offered parking passes close by at the management company’s expense, by way of compensation for the loss. The Applicant seeks to charge this as a service charge under the terms of the lease.
108. The Tribunal notes that not all the residents of “the complex” are provided with parking. There are only 18 parking spaces and six are used by commercial neighbours who are not part of “the complex”. The remaining spaces may well be let to residents of “the complex”, but that is not a requirement of the lease in this case. The lease does not require the Respondent to contribute to the cost of dealing with a separate agreement being breached. This cannot be charged as a service charge under the terms of the lease. The Tribunal removes from the service charge calculation the sum of £125.70, including VAT.
109. The tenth area covered in the Scott Schedule refers to invoice 23249, (bundle, page 378). This invoice is outside the time period covered by the claim.

110. The Tribunal therefore deducts from the calculation of the service charges in the case the following sums:

Service charge year 2013

- £51.60 paragraph 72 of this Decision
- £72 paragraph 74 of this Decision
- £1147.04 paragraph 77 of this Decision
- £216 paragraph 79 of this Decision
- £162 paragraph 81 of this Decision
- £132 paragraph 85 of this Decision
- £103.20 paragraph 86 of this Decision

Service charge year 2014

- £168 paragraph 89 of this Decision
- £21.60 paragraph 94 of this Decision
- £43.20 paragraph 95 of this Decision
- £64.80 paragraph 96 of this Decision
- £216 paragraph 97 of this Decision
- £43.20 paragraph 98 of this Decision
- £73.20 paragraph 99 of this Decision
- £73.20 paragraph 100 of this Decision
- £222 paragraph 101 of this Decision
- £21.60 paragraph 103 of this Decision
- £64.80 paragraph 104 of this Decision
- £168 paragraph 105 of this Decision
- £125.70 paragraph 108 of this Decision

Total £3189.14

111. The Respondent is required to pay a one sixteenth share of the total service charge and so the amount that is reduced from the calculation of service charges in respect of the Respondent is £3189.14 @6.25% =£199.32 per apartment.
112. The amount claimed by the County Court Claim is £4532.94. This figure was reduced during the hearing to the figure that could be justified in the accounting documents of £4532.34. The Tribunal deducts from that amount the sum of £199.32, which the Tribunal has found to be either not payable under the terms of the lease or not reasonable.
113. The Tribunal determines that the figure of £4333.02, per apartment, is the amount that is payable under the terms of the lease and can reasonably be demanded from the Respondent as a service charge as at the date of the issue of this claim in the County Court.

The Decision

114. The Tribunal decides that £4333.02, per apartment, is the amount that is payable under the terms of the lease and can reasonably be demanded from the Respondent as a service charge as at the date of the issue of this claim in the County Court.
115. This case must now be transferred back to the County Court.