



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

**Case reference** : **LON/00AR/LSC/2021/0423  
P:REMOTE**

**Property** : **32A Roneo Corner, Hornchurch,  
Essex, RM12 4TN**

**Applicant** : **Ms Neeley Gul**

**Representative** : **Mr S Gul**

**Respondent** : **Mr C J Heard**

**Representative** : **Mullis & Peake LLP**

**Type of application** : **s27A and s20C Landlord and  
Tenant Act 1985; Schedule 11 paras  
1 and 5 Commonhold and  
Leasehold Reform Act 2002**

**Tribunal members** : **Judge F J Silverman MA LLM  
Mr M Taylor MRICS**

**Date and venue of  
paper determination** : **08 April 2022**

**Date of decision** : **25 April 2022**

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**DECISION**

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**DECISION AND ORDER**

- 1 The Tribunal determines that a reasonable sum for the Respondent to charge the Applicant in respect of a proposed licence to sublet would be no more than £500 including VAT and registration fees.**

- 2 The Tribunal makes unlimited orders under s20 C Landlord and Tenant Act 1985 and Schedule 11 para 5 Commonhold and Leasehold Reform Act 2002 in favour of Ms N Gul.**
- 3 The Respondent is ordered to repay £100 to Ms N Gul representing her application fee.**

**This has been a remote consideration on the papers which has been consented to by the parties. The form of remote hearing was P:REMOTE. A face to face hearing was not held because it was not practicable and all issues could be determined in a remote hearing. The documents to which the Tribunal was referred are contained in electronic bundles the contents of which are referred to below. The orders made in these proceedings are described above.**

## **REASONS**

1. The Applicant is the leaseholder of 32A Roneo Corner, Hornchurch Essex, RM12 4TN (the property) which forms part of a larger building comprising commercial premises at street level and a self-contained one bedroom residential flat on the upper floor. The Respondent is the current freeholder of the property.
2. The only issue for determination by the Tribunal is the reasonableness of the estimated sum the Respondent proposes to charge the leaseholder for the grant of a licence to sublet the property on an assured shorthold tenancy i.e. an administration charge (doc 332).
3. The Applicant's application (doc 330) also requested a determination under s27 Landlord and Tenant Act 1985 of the service charges for the years 2019-20, 2020-21 and estimated charges for 2021-22. Since no details of the service charges for any of these years were submitted to the Tribunal it was unable to consider these items and makes no determination in respect of them.
4. The Application was received by the Tribunal on 17 November 2021 and Directions were issued by the Tribunal on 17 December 2021.
5. The Tribunal received and read the electronic bundles of documents, including the parties' respective statements of case referred to below.
6. The hearing took place as a paper consideration to which the parties had previously consented.
7. In accordance with current Practice Directions relating to Covid 19 the Tribunal did not make a physical inspection of the property but was able to obtain an overview of its exterior and location via GPS software.
8. The Applicant holds the property having taken an assignment of a lease dated 16 November 2007 and made between the Respondent as landlord and J D Whiteman.

9. The lease is for a term of 125 years and at clause 3.15 contains a covenant by the tenant not to sub-let part only of the property.
10. Clause 3.17 contains a covenant by the tenant not to sub-let the whole without the landlord's consent and clause 3.21.2 allows the landlord to charge his costs in relation to the grant of a licence. The lease also requires the tenant to pay the landlord £50 + VAT as a fee for registering any devolution of the property (clause 3.18.4).
11. A covenant restricting the sub-letting of the whole of a property is unusual in a lease of this type but its effect is mollified by the non-excludable proviso provided by s19 Landlord and Tenant Act 1927 which implies words to the effect that the landlord's consent shall not be unreasonably withheld. The same section allows the landlord to charge a 'reasonable' amount for his costs of granting consent.
12. After having taken possession of the property, the Applicant discovered that the parking space allocated to her by the lease was being used by the Respondent landlord. While this matter was resolved in the Applicant's favour it appears to have damaged the relationship between the parties and ultimately the Applicant ceased to live at the property which was left vacant except for occasional use by visiting relatives and friends.
13. The Respondent asserts that these occasional uses were a breach of the covenant against sub-letting (because no prior permission was sought) but has brought no substantive evidence in support of this contention. They state that they have issued two s146 notices to the Applicant (fair copy not included in the bundle). This may be intended merely as a deterrent to the Applicant since the recovery of possession of a long residential leasehold by forfeiture is complex and difficult. Since the current application does not relate to breach of covenant this issue is not further discussed here.
14. The Applicant then decided to sub-let the property on a 12 month assured shorthold tenancy and requested the Respondent's consent to do so.
15. In response, the Respondent wished to see the proposed tenancy agreement, to know the identity of the proposed tenant and to charge the Applicant believes that costs in the region of £700 for the grant of the licence were proposed but it appears that this was actually £600 (£500 plus VAT of £100). It is unclear whether this estimate was intended to include or exclude the registration fee of £50 and VAT.
16. The Applicant considers that the sum demanded for the grant of the licence is extortionate and refers the Tribunal to the Upper Tribunal case of *Solitaire v Cherry Norton* [2012] UKUT 1 (LC) (this comprises four conjoined appeals) where the Upper Tribunal held that a fee of £45-50 was a reasonable sum for a landlord to charge for granting a licence.

17. In the Cherry Norton case the Upper Tribunal considered the reasonableness of fees demanded by landlords for granting consent in four separate cases where the charges ranged between £105 and £135 plus, in each case, a registration fee of £75 and VAT. They considered that the legal work involved would take no more than one hour with two hours allocated for administration work and concluded that the correct level of fee for this work would in each case be £45-50 per transaction.
18. While the Tribunal recognises that prices have risen since 2012, the Respondent's estimate does appear to be expensive. They have not fully explained what work they consider is involved in the transaction nor the hourly rate of the fee earner who would be carrying out the work.
19. In the Tribunal's experience the work involved in granting a licence of this type is very straightforward and includes checking the lease clause to see if permission is needed; printing out a draft licence from a standard template and, when approved by the tenant exchanging signed copies. It would also be necessary to check the proposed tenancy agreement is in a standard form, to invoice the tenant, and to register the dealing after completion and payment of the fee. None of this work requires the expertise of a grade A fee earner and all of the work could be accomplished in less than 2 hours chargeable time.
20. There should be no need for the landlord to check the identity of the incoming sub-tenant because the tenant (as landlord to the sub-tenant) would be required by law to do this. Similarly, the tenant remains bound by her own covenants so there is no need for a deed of covenant between the landlord and subtenant in this situation.
21. The reasonable amount to be charged for this work would depend on the fee earner's hourly rate which in the Respondent's solicitor's case would be based on the National 1 grade of the Solicitors' guideline hourly rates published by HM Courts and Tribunals Service (updated October 2021) which provides for an hourly charge rate of £261 for a grade A fee earner and £218 for a grade B fee earner.
22. Referring to the above rates the Tribunal considers that a charge of no more than £500 to include both the registration fee and VAT would be reasonable in the present circumstances.
23. The Applicant also asked the Tribunal to make an order under s20C Landlord and Tenant Act 1985 and/ or Schedule 11 para 5 of Commonhold and Leasehold Reform Act 2002 which prevents the Respondent from adding the litigation costs of this application to a future service charge bill.
24. The Respondent's conduct towards the Applicant has lacked both cooperation and conciliation. In these circumstances the Tribunal considers that it is reasonable to make an unlimited order under both

the above sections in favour of the Applicant named in this application and to order the repayment to the Applicant of her £100 application fee.

## **The Law**

### **Landlord and Tenant Act 1985 (as amended)**

#### **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 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.
- (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 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate tribunal .
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and
  - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

### **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 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 that tribunal;
  - (b) in the case of proceedings before a residential property tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any residential property 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.

## **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 the appropriate 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 the appropriate 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).

## **Section 47 Landlord and Tenant Act 1987**

(1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—

(a) the name and address of the landlord, and

(b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.

(2) Where—

(a) a tenant of any such premises is given such a demand, but

(b) it does not contain any information required to be contained in it by virtue of subsection (1),

then (subject to subsection (3)) any part of the amount demanded which consists of a service charge [F1 or an administration charge] (“the relevant amount”) shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.

(3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court [F2 or tribunal], there is in force an appointment of a receiver or manager whose functions include the receiving of service charges [F3 or (as the case may be) administration charges] from the tenant.

(4) In this section “demand” means a demand for rent or other sums payable to the landlord under the terms of the tenancy.

### **Withholding of service charges Landlord and Tenant Act 1985 s21**

21 (1) A tenant may withhold payment of a service charge if—

(a) the landlord has not provided him with information or a report—

(i) at the time at which, or

(ii) (as the case may be) by the time by which,

he is required to provide it by virtue of section 21, or

(b) the form or content of information or a report which the landlord has provided him with by virtue of that section (at any time) does not conform exactly or substantially with the requirements prescribed by regulations under that section.

(2) The maximum amount which the tenant may withhold is an amount equal to the aggregate of—

(a) the service charges paid by him in the period to which the information or report concerned would or does relate, and

(b) amounts standing to the tenant's credit in relation to the service charges at the beginning of that period.

(3) An amount may not be withheld under this section—

(a) in a case within paragraph (a) of subsection (1), after the information or report concerned has been provided to the tenant by the landlord, or

(b) in a case within paragraph (b) of that subsection, after information or a report conforming exactly or substantially with requirements prescribed by regulations under section 21 has been provided to the tenant by the landlord by way of replacement of that previously provided.

(4) If, on an application made by the landlord to the appropriate tribunal, the tribunal determines that the landlord has a reasonable excuse for a failure giving rise to the right of a tenant to withhold an amount under this section, the tenant may not withhold the amount after the determination is made.

(5) Where a tenant withholds a service charge under this section, any provisions of the tenancy relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

### **21B Notice to accompany demands for service charges**

(1) A demand for the payment of a service charge must be accompanied by a summary of the rights and obligations of tenants of dwellings in relation to service charges.

(2)The Secretary of State may make regulations prescribing requirements as to the form and content of such summaries of rights and obligations.

(3)A tenant may withhold payment of a service charge which has been demanded from him if subsection (1) is not complied with in relation to the demand.

(4)Where a tenant withholds a service charge under this section, any provisions of the lease relating to non-payment or late payment of service charges do not have effect in relation to the period for which he so withholds it.

(5)Regulations under subsection (2) may make different provision for different purposes.

(6)Regulations under subsection (2) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **S22 Landlord and Tenant Act 1985**

### **22 Request to inspect supporting accounts &c.**

(1)This section applies where a tenant, or the secretary of a recognised tenants' association, has obtained such a summary as is referred to in section 21(1) (summary of relevant costs), whether in pursuance of that section or otherwise.

(2)The tenant, or the secretary with the consent of the tenant, may within six months of obtaining the summary require the landlord in writing to afford him reasonable facilities—

(a)for inspecting the accounts, receipts and other documents supporting the summary, and

(b)for taking copies or extracts from them.

(3)A request under this section is duly served on the landlord if it is served on—

(a)an agent of the landlord named as such in the rent book or similar document, or

(b)the person who receives the rent of behalf of the landlord;

and a person on whom a request is so served shall forward it as soon as may be to the landlord.

(4)The landlord shall make such facilities available to the tenant or secretary for a period of two months beginning not later than one month after the request is made.

(5)The landlord shall—

(a)where such facilities are for the inspection of any documents, make them so available free of charge;

(b)where such facilities are for the taking of copies or extracts, be entitled to make them so available on payment of such reasonable charge as he may determine.

(6)The requirement imposed on the landlord by subsection (5)(a) to make any facilities available to a person free of charge shall not be construed as precluding the landlord from treating as part of his costs of management any costs incurred by him in connection with making those facilities so available.

Judge F J Silverman as Chairman  
**Date 25 April 2022**

Note:

## **RIGHTS OF APPEAL**

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application by email to [rplondon@justice.gov.uk](mailto:rplondon@justice.gov.uk).
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.



