



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

**Case Reference** : LON/00BK/LSC/2021/0295

**Property** : Princes Court, 88 Brompton Road,  
London SW3 1ES

**Applicants** : Fidele Di Maggio and other listed  
members of the Princes Court  
Leaseholder Association

**Representative** : Brecher LLP

**Respondent** : Itemtrump Ltd

**Representative** : PDC Law

**Type of Application** : Payability of service charges

**Tribunal** : Judge Nicol  
Mr C Gowman MCIEH

**Date of Decision** : 7<sup>th</sup> April 2022

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**DECISION**

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The Tribunal dismisses the application for orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of the Commonhold and Leasehold Reform Act 2002.

Relevant legislation is set out in an Appendix to this decision.

**The Tribunal's reasons**

1. On 18<sup>th</sup> February 2022 the Tribunal determined that the service charges challenged in these proceedings are reasonable and payable, save that charges arising from the 2-year contract with Southern Drains is limited in the first year to £100 for each Applicant (most of the Applicants paid less than £100 for this charge; the maximum overcharge was £22.40).

2. The Tribunal gave directions for the determination of the outstanding issue of whether the Tribunal should make orders under section 20C of the Landlord and Tenant Act 1985 and paragraph 5A of the Commonhold and Leasehold Reform Act 2002 limiting the costs of these proceedings which the Respondent may recover.
3. By email dated 2<sup>nd</sup> March 2022, the Applicants notified the Tribunal that they still sought such orders. By further email dated 18<sup>th</sup> March 2022 they sought an extension of time for making submissions. The Tribunal refused the extension by letter dated 21<sup>st</sup> March 2022.
4. Since then, neither party has provided any submissions. The Tribunal has gone on to consider the costs issue on the available material.
5. If a lease permits the recovery of such costs, the Tribunal must be mindful that such orders limit a party's contractual rights under the lease. The Tribunal has also taken into account:
  - (a) The Applicants were entirely unsuccessful, save in respect of one small item.
  - (b) The Tribunal had to exclude a witness statement which was provided unjustifiably late by the Applicants.
  - (c) The Tribunal criticised the Applicants for failing to seek answers to their queries before resorting to litigation.
  - (d) The Tribunal noted that, rather than put forward a positive case, the Applicants' approach was to fish around the Respondent's documents for apparent discrepancies to query, as if they believed the Respondent and their agents were highly likely to have done something, if not many things, wrong. In fact, as two Tribunals have now found, this is a well-run building and it is inappropriate to take litigation based solely on unfounded suspicion.
6. In the circumstances, the Tribunal is satisfied that there is no basis for making either of the orders sought.

**Name:** Judge Nicol

**Date:** 7<sup>th</sup> April 2022

### **Rights of appeal**

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

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

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

## **Appendix of relevant legislation**

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

#### **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 5A**

- (1) A tenant of a dwelling in England may apply to the relevant court or tribunal for an order reducing or extinguishing the tenant's liability to pay a particular administration charge in respect of litigation costs.
- (2) The relevant court or tribunal may make whatever order on the application it considers to be just and equitable.
- (3) In this paragraph—
  - (a) “litigation costs” means costs incurred, or to be incurred, by the landlord in connection with proceedings of a kind mentioned in the table, and
  - (b) “the relevant court or tribunal” means the court or tribunal mentioned in the table in relation to those proceedings.

<b><i>Proceedings to which costs relate</i></b>	<b><i>“The relevant court or tribunal”</i></b>
Court proceedings	The court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, the county court
First-tier Tribunal proceedings	The First-tier Tribunal
Upper Tribunal proceedings	The Upper Tribunal
Arbitration proceedings	The arbitral tribunal or, if the application is made after the proceedings are concluded, the county court.