



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

Case reference : **LON/00AH/LSC/2020/0346**

Property : **Flat 1, 183 Brighton Road, Croydon,
CR2 6EG**

**HMCTS code (paper,
video, audio)** : **P: PAPER REMOTE**

Applicant : **Mr Gabriel Aboyeji**

Representative : **In person**

Respondent : **Mr Philip Sheridan**

Representative : **In person**

Type of application : **For the determination of the
reasonableness of and the liability
to pay a service charge**

Tribunal Members : **Judge Robert Latham**

**Venue and Date of
Paper Determination** : **10 Alfred Place, London WC1E 7LR
on 3 March 2021**

Date of decision : **3 March 2021**

DECISION

Decisions of the Tribunal

- (1) The Tribunal is satisfied that the insurance premiums demanded for the years 2015 to 2020 are payable and reasonable.

- (2) The Tribunal makes no order under Section 20C of the Landlord and Tenant Act 1985 or for the refund of the tribunal fees which have been paid by the Applicant.

Covid-19 pandemic: description of hearing

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The tribunal has had regard to the documents specified in paragraph 3 of this decision.

The Application

1. By an application, dated 28 October 2020, the Applicant tenant seeks a determination pursuant to s.27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) as to the amount of service charges payable in respect of insurance for the years 2015 to 2020. The Applicant also seeks an order for the limitation of the landlord's costs in the proceedings under section 20C of the Act.
2. The application relates to Flat 1, 83 Brighton Road, Croydon, CR2 6EG (“the Flat”). This is a two bedroom flat in a converted house. There are commercial premises on the ground floor and two flats on the first and second floors. The Flat is on the first floor. During the years in dispute, the landlord has charged the Applicant the following sums in respect of insurance: (i) 2015: £284.60; (ii) 2016: £284.60; (iii) 2017: £288.90; (iv) 2018: £287.20; (v) 2019: £287.20; and (vi) 2020: £288.40. The Applicant states that he paid the sums demanded under protest as he has been negotiating an extension to his lease.
3. On 3 December, the Tribunal gave Directions pursuant to which:
 - (i) The Respondent has filed a statement describing the arrangements which he has made for insuring the property. He has provided the service charge demands and the policies for the years 2015/6 to 2020/21.
 - (ii) The Applicant was directed to provide a statement in response covering the following: (a) a response to the landlord's statement; (b) alternative premium quotations on a like-for-like basis; (c) the grounds for any objection to the premium; (d) the grounds for any objection to the level of service/sum insured; (e) comparable evidence from any broker you have contacted; (f) comparable evidence of very similar blocks; and (g) evidence as to the level of insurance (sum insured). The Applicant has merely responded “unable to provide” contending the landlord has provided insufficient information to enable him to do so.

The Lease

4. The original lease is dated 9 October 2000 and was for a term of 99 years from 25 March 2020. There has now been a statutory extension of 90 years at a premium of £6,500. A peppercorn rent now replaces the reserved rent of £50 for the first 25 years of the term. The extension was executed through a surrender and grant.
5. By Clause 5(7), the landlord covenants to insure the building. By Clause 4(1), the tenant covenants to pay his share of the annual maintenance cost. This includes the “costs of and incidental” to the landlord’s covenant to insure. The tenant’s contribution to the annual maintenance cost is 1/3 of the expenses which relate to the whole building and 50% of those which relate to the two flats.

The Tribunal’s Determination

6. The landlord occupies the commercial premises on the ground floor. The insurance premium is apportioned 40% to the commercial premises and 30% to each of the tenants. The Respondent takes no exception to this apportionment.
7. Mr Sheridan describes how between 2009 and 2015, there had been several claims for flooding as the building sits over the Waddon tributary and it is a flood risk. At the time he found that the building was under insured and asked Fenchurch Insurance Brokers (“Fenchurch”) to look at building insurance as they had done his commercial insurance. By 2015, the total premium had reached £957. Fenchurch carried out an assessment of the buildings usage and storage and was able to reduce the premiums. Fenchurch use a commercial search engine called iprism, used by insurance brokers to find the best deal.
8. For the past five years, the landlord has decided to stay with Fenchurch. The last time that Mr Sheridan looked for a new broker, it came back with a more expensive quote using the same underwriter. There have been a number of roof leaks over the last few years, as a result of which there is now an excess of £2,000.
9. Mr Sheridan describes Mr. Aboyeji as a difficult tenant. He has withheld his contribution for insurance over a number of years. He has refurbished the Flat without obtaining the consents required by his lease. He has also sublet the Flat in breach of the terms of the lease. There have been many leaks from the Flat into the ground floor commercial premises. Mr Sheridan has had to repair this at considerable expense. Mr Aboyeji has refused to contribute. This is confirmed by the correspondence that Mr Sheridan has provided.

10. Fenchurch have provided two letters. In a letter, dated 13 October 2020, they describe the insures which have been used, namely Allianz from 2015/6 to 2016/7, L.V. in 2017/8 and Aviva from 20189/ to 2019/20. In a letter dated 8 February 2021, Fenchurch specify the premiums paid, including insurance tax. There is also a claims assistance policy of £44.80 per annum. There was an increase in premium in November 2020 (from £912.53 to £941.62) as there was an ongoing claim for storm damage to the roof and a window which was settled in the sum of £2,442. Fenchurch would normally re-market policies every 3 years. It was not reviewed in 2020 because of the pending claim.
11. The landlord has provided a copy of the current policy which was issued on 24 November 2020. The premium id £941.62 together with the claims assistance policy of £44.80. The building restatement value is specified at £516,108. The policy covers legal expenses insurance and terrorism.
12. Mr Aboyeji has made an informed decision not to respond to the material provided by the landlord. No alternative quotes have been provided. No criticism is made of the way in which the insurance premium has been apportioned. No criticism is made of the scope of the policy.
13. The Tribunal is satisfied that the service charges demanded in respect of insurance are both payable pursuant to the terms of the lease and are reasonable. The landlord has justified the premiums that have been charged. In the experience of this tribunal, a premium of £280 per annum for a two bedroom flat is not unreasonable.
14. In the light of the above findings, I do not make any order under section 20C of the 1985 Act. Neither do I make any order for the reimbursement of the tribunal fees paid by the Applicant.

Judge Robert Latham
3 March 2021

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).

