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

**Case Reference** : **LON/00BB/LSC/2013/0631**

**Property** : **5 Holyrood Mews, Royal Victoria  
Docks, London E16 1TJ**

**Applicant** : **Mr J.Van Niekerk**

**Representative** : **In person**

**Respondent** : **Land & Properties Limited**

**Representative** : **Warwick Estates Property  
Management Limited**

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

**Tribunal Members** : **Judge O'Sullivan**

**Date of Decision** : **16 December 2013**

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**DECISION**

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## **Decisions of the tribunal**

The tribunal makes an order under section 20C of the Landlord and Tenant Act 1985 so that none of the landlord's costs of the tribunal proceedings may be passed to the lessees through any service charge

## **Background**

1. By an application received on 3 September 2013 the Applicant asked the tribunal to determine whether he was being charged the correct apportionment of service charge. He stated that he was being charged at the rate of 0.7143% of expenditure whereas his lease provided for a percentage of 0.1085%.
2. He also applied for reimbursement of his costs in the sum of £65 and for an order under section 20C.
3. Directions were made dated 5 November 2013 which provided for the application to be considered by way of a paper determination.
4. By letter dated 21 November 2013 the Respondent admitted the claim as put forward by the Applicant, accepting that the wrong percentage had been adopted, and confirmed that it would make the necessary adjustments to the service charge account. The amount to be credited for the periods 2010, 2011, 2012 and 2013 amounted to £449.51.
5. By a letter dated 8 December 2013 the Applicant set out his costs claimed in the total sum of £187.60. This was made up of the application fee, travel costs and time spent on this matter.
6. By a letter dated 11 December 2013 the Respondent wrote to confirm that it accepted the costs sought by the Applicant and was arranging for a cheque to be sent in the sum of £187.60.
7. The only matter remaining therefore remaining before the tribunal was the application for an order under section 20C.
8. The Respondent had been invited to make representations in relation to the application under section 20C in the directions dated 5 November 2013 but it had failed to do so. It may be of course that it does not intend to pass any of its legal costs incurred in connection with this application through the service charge.

**Application under section 20c – the tribunal’s decision**

9. Taking into account the fact that the Respondent has accepted the Applicant’s claims in full and given that the Applicant has obviously tried to resolve matters before making the application the tribunal determines that it is just and equitable in the circumstances for an order to be made under section 20C of the 1985 Act. The effect of the order is that the Respondent may not pass any of its costs incurred in connection with the proceedings before the tribunal through the service charge.

**Name:** S O’Sullivan

**Date:** 16 December 2013

## **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.