



Courts and Tribunals Judiciary

Shared ownership leaseholders: service charge disputes before the First-tier Tribunal

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Introduction and topics

- Overview of the Tribunal
- Two common types of dispute:
 - Service charges
 - Administration charges
- Tribunal proceedings:
 - Starting proceedings
 - Case management
 - Hearings, decisions & appeals
- Costs
- Other issues



Overview of the Tribunal

- First-tier Tribunal (Property Chamber)
- Residential Property division (“RP”)
- Five regional offices in England:
 - London: WC1
 - Southern: Havant
 - Eastern: Cambridge
 - Midland: Birmingham
 - Northern: Manchester
- Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

RP Jurisdictions

- Leasehold jurisdictions include:
 - Service charges & administration charges
 - Appointment of manager/ right to manage
 - Breach of covenant
 - Enfranchisement/ lease extensions
 - Building Safety Act 2022
- Other jurisdictions:
 - Fair and market rents
 - HMO licensing & HHSRS appeals
 - Rent repayment orders & financial penalty appeals
 - Park homes disputes

Calculation of service charges

- The lease:
 - How and when demands can be made
 - For which services and costs
- Variable and fixed service charges
- Payments in advance
- Variable service charges:
 - End-of-year reconciliation with actual costs
 - Demand for shortfall or refund/credit of surplus
- Form of demands/ Statement of rights and obligations
- Annual accounts

Landlord and Tenant Act 1985

- Section 18, definition of service charges:
 - Payable by a tenant
 - For various services and costs
 - Which vary according to the relevant costs of the landlord
- Section 19, limits relevant costs:
 - Must be “reasonably incurred” and
 - Services or works must be of “reasonable standard”
 - Advance charges must be a “reasonable” amount
- Section 27A, Tribunal to decide liability to pay:
 - By whom, to whom
 - The amount, date and manner it is payable

Service charge disputes

- Typical complaint by landlord:
 - Tenant/lessee has not paid a reasonable service charge
- Typical complaints by tenant/lessee:
 - Costs not covered by lease
 - Amount is unreasonable
 - Work were not done/ services were not provided
 - Works not necessary
 - Poor standard of work



Administration charges

Commonhold & Leasehold Reform Act 2002, Sched.11

- Amount payable by a tenant of a dwelling directly or indirectly:
 - For grant of approvals under the lease
 - For provision of information or documents
 - In respect of a tenant's failure to pay
 - In connection with a breach of covenant
- A variable charge must be reasonable
- Usually needs a charging clause in the lease

Starting RP proceedings

- Tribunal application forms online
 - <https://www.gov.uk/government/collections/residential-property-first-tier-tribunal-forms>
 - Identify charges in dispute
 - Fees payable £110 & £220 unless fees waiver applies
- OR:** Transfer from county court

After receipt:

- Paper directions or
- Case management hearings in complex cases



RP case management

- Directions:
 - Adding/changing parties (e.g. superior landlord)
 - Disclosure of documents
 - Statements of case & **schedule**
 - Witness statements/ experts
 - Bundles of documents
 - The hearing/ inspection
- Mediation
- Paper determinations
- Oral hearings:
 - Face-to face
 - Video/ hybrid



The hearing

- Target times
- Public hearing, in person and video
- Tribunal members
- Representation:
 - Self-representation
 - Lawyer representation
 - Surveyors/ non-legal reps
- Documents and witnesses
- Experts (if allowed)



Decisions and appeals

- Written decisions – published on website:
 - <https://www.gov.uk/residential-property-tribunal-decisions>
- Target times
- Right of appeal:
 - To Upper Tribunal
 - Need for permission from FTT
 - Time limit (28 days)
- Power to review
- Power to set aside



Costs

The Tribunal is a “no-costs” jurisdiction, BUT:

- Rule 13:
 - Wasted costs (against representative)
 - Unreasonable conduct
- Costs recovered via the lease:
 - Through the service charge
 - As an administration charge
- Court costs
- Statutory protections:
 - Section 20C LTA 1985
 - Para.5A, Sched.11, CLRA 2002



Other issues

- Technical points:
 - Check compliance with lease
 - Major works: consultation requirements (s.20 LTA 1985)
 - 18-month rule (s.20B LTA 1985)
- Online hearings:
 - <https://www.gov.uk/government/publications/first-tier-tribunal-property-chamber-residential-property-hearing-lists>
- Some sources of free advice:
 - Leasehold Advisory Service: <https://www.lease-advice.org>
 - Citizens Advice: <https://www.citizensadvice.org.uk/housing/>
 - Support Through Court: 03000 810 006
 - Advocate: www.weareadvocate.org.uk