Y TRIBIWNLYS EIDDO PRESWYL

RESIDENTIAL PROPERTY TRIBUNAL (WALES)

Reference: LVT/0048/12/24

In the Matter of an Application under Section 27A of the Landlord and Tenant Act 1985

Applicants/Respondents on Appeal:

(1) Mr Stephan Hays (Flat 1)
(2) Mr Richard Hirst (Flats 2 and 3)
(3) Huw Phillip Lynd-Evans, as executor of the estate of Rachel Everet (Flat 4)
(4) Lee Greenow (Flat 5)
(5) Geraint Davies (Flat 6)
(6) Stuart Powell (Flat 7)
(7) Annamarie Price (Flat 8)
(8) Ieuan Davies (Flat 9)
(9) Ian Ryland (Flat 10)
(10) Michelle Bevan (Flat 11)
(11) Paul Rowe (Flat 12)
(12) Valerie George (Flat 13)
(13) Niall Evans (Flat 14)

Respondent/Appellant on Appeal:

G & O Investments Ltd

Tribunal: **Colin Green (Legal Chair)**
Hefin Lewis FRICS (Valuer Member)

DECISION ON PERMISSION TO APPEAL

(1) The Respondent’s application for permission to appeal is granted in respect of Ground Four;

(2) The application is refused on all other grounds.

REASONS FOR DECISION

1. This is an application by G&O for permission to appeal the Tribunal’s decision of 8 June 2026 (“the Decision”). For ease of reference the parties will continue to be referred to as “the Applicants” and “the Respondent”. The definitions and terms used in the Decision continue to be employed.

2. There are six Grounds of Appeal attached to the application form of 26 June 2026. The Tribunal gave the Applicants permission to respond to the Grounds of Appeal, which they did by 23-page document.

3. The Decision may be appealed to the Upper Tribunal (Lands Chamber) if there is realistic prospect that the appeal will succeed on one or more of the following grounds:

   3.1. the Decision shows that the Tribunal wrongly interpreted or wrongly applied the relevant law;

   3.2. the Decision shows that the Tribunal wrongly applied or misinterpreted or disregarded a relevant principle of valuation or other professional practice;

3.3. the Tribunal took account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or if there was a substantial procedural defect; or

3.4. the point or points at issue is or are of potentially wide implication.

4. Paragraph 6 of the application form states that:

4.1. the Decision shows that the Tribunal wrongly interpreted or wrongly applied the relevant law;

4.2. the Tribunal took account of irrelevant considerations, or failed to take account of relevant considerations or evidence, or there was a substantial procedural defect.

5. The Tribunal will deal with each of the Grounds of Appeal in turn.

Ground One

6. This challenges the Tribunal's findings of fact concerning the service of annual service charge statements and invoices/statements, preferring the Applicants' evidence to that of the Respondent. The Tribunal's findings were not against the weight of the evidence, which on the basis of the Applicants' statements and testimony on the first day of the hearing was that they were not being served until about April to July 2023. Mr. Khan and Mr. Nath were unable to give direct evidence of service beyond the existence of the documents in Praxis' records.

7. None of the documents mentioned in paragraph 3 of the Grounds of Appeal were put to the relevant witnesses in cross-examination.

8. It should be noted that the Tribunal made findings that annual service charge statements had been received by Michelle Bevan (Flat 11) at her

request (paragraph 39 of the Decision). The fact that she had to make specific requests suggests that without having done so she would not have received the documents.

9. The Tribunal does not consider that there is reasonable prospect of success that its findings of fact were against the weight of the evidence.

Ground Two

10. Again, this was a finding of fact, supported by the testimony of several witnesses who stated rights and obligations were printed on the reverse of the invoices/statements, but in English only. That was a finding to which the Tribunal was entitled to reach.

11. As regards the observation in paragraph 41 of the Decision that according to the Respondent's copies, the English version is derived from the English regulations, not as set out in the Welsh regulations, as there is reference to "the First-tier Tribunal" rather than "a leasehold valuation tribunal", which would be a failure to comply with the Welsh regulations, the Respondent relies on the Upper Tribunal decision in *Roberts v Countryside Residential (South West) Limited* [2017] UKUT 386 (LC), in particular paragraphs 48 and 49. The alleged errors in that case were considered to be trivial so as not to render a service charge demand invalid, and differed from the error here. Paragraph 47 states:

> *"…the purpose of the requirement in s.21B(1) of the 1985 Act that a demand for service charges include a summary of the tenant's rights and obligations is to inform the tenant as to what his rights are and what action he may take to protect them (and likewise to inform him of his obligations). These include the right to apply to the LVT for a determination as to liability to pay the service charge and the amount, the potential costs of doing so, the right to be consulted where service charge costs exceed a certain sum and rights to obtain information."*

12. In the Tribunal's view, referring to the wrong Tribunal – there is no right to apply to the First-tier Tribunal in Wales – is a material error.

13. In any event, even if that is wrong the Tribunal does not consider that the finding of fact that no information in Welsh was provided is capable of challenge.

14. As a result, the Tribunal does not consider that there is a reasonable prospect of success on this Ground.

Ground Three

15. It is correct that the certification required under paragraph 2(b)(v) of the Third Schedule to the Lease is not of the Lease owner's liability but that the service charge statement is a fair summary of the service costs, by reference to which a positive or negative balance is calculated. It is also correct that certification is one of the five requirements identified by each of the five sub-paragraphs.

16. The Tribunal does not agree however, that it is an inherently unlikely construction of the five sub-paragraphs that non-compliance with any one of them would render a document which was otherwise a service charge statement null and void. As established in *Powell & Co Investments Ltd v Alerksandrova* [2020] UKUT 10 (LC), the function and legal effect of certification depend entirely on the lease wording, and there is nothing in the Lease which would lead to a construction that certification of the service costs is optional, or that compliance with any of the five requirements has greater or lesser importance than the others. As a matter of construction, there must be compliance with all.

17. The argument at paragraphs 12 and 13 of the Grounds of Appeal is rejected. It does not follow from the provisions of s. 21(3) of the 1985 Act, in the form which existed in 2005, that it is unlikely that the parties would

have intended that certification was a condition precedent when that statutory safeguard was available for the tenant. The wording of the Lease is sufficiently clear that a service charge statement which complies with the five requirements must be given to the Tenant for liability to arise (paragraph 51 of the Decision).

18. As regards paragraph 14 of the Grounds of appeal, the Tribunal agrees with the submissions of the Applicants in paragraphs 18 to 31 of the Applicants' response to Ground Three.

19. Therefore, there is no reasonable prospect of success on this Ground.

Ground Four

20. This concerns the provisions of s. 20B(2) which creates a limited statutory exception to the time bar imposed by section 20B(1). The Respondent contends that the invoices/statements and the service charge statements which were served, even if contractually invalid, amounted to notices under s. 20B(2) and therefore stopped time running in respect of relevant costs incurred within the period of 18 months before service of the notice. The following points arise in respect of this.

21. First, it is stated that Tribunal erred in law and/or there was a serious procedural defect in failing to consider whether s. 20B(2) of the 1985 Act was engaged. This is incorrect. The Tribunal's function is to determine the issues in dispute between the parties. The Applicants relied on s. 20B(1) so that it was for the Respondent to raise s. 20B(2) by way of disapplying s. 20B(1), relying on the argument set out in the Grounds of Appeal. It did not do so in either the Respondent's statements, the Respondent's skeleton argument, or in oral submissions. None of the authorities cited in paragraph 16 of the Grounds of Appeal were referred to or contained in the bundle of authorities compiled by the Respondent's counsel for the final day of the hearing. From this, the Tribunal concluded that the

Respondent was not relying on a notice under s. 20B(2) in respect of any of the service charge years.

22. Nevertheless, although now raised for the first time it is open to the Respondent to do so on an appeal, provided that no fresh evidence is required to determine the point, that as a matter of law there is a reasonable prospect of success, and that the issue will affect the outcome of the case.

23. Second, concerning the merits of the Respondent's argument, it is claimed that the annual service charge statements and/or the statements/invoices which were served will have qualified as notices under s. 20B(2). Based on the authorities referred to in paragraph 16 of the Grounds of Appeal the Tribunal considers that there is a reasonable prospect of success, that no fresh evidence will be required on the point, and that it will affect the outcome.

24. Accordingly, it will grant permission to appeal on this ground.

Ground Five

25. At paragraph 87 of the Decision, the Tribunal accepted that Praxis was not bound to accept the lowest quotation of £3,842.00. However, it would also have been unreasonable for Praxis to adopt the highest quotation of £5,042.00. The Tribunal took the view that a management company, acting reasonably, would accept an insurance quotation from a company that would represent the average of the quotations obtained. The average of the quotations is £4,499.00 and this was adopted as the reasonable amount payable. This equates to 68.36% of the premium charged by Praxis. Insurance premiums charged for the respective years were adjusted accordingly.

26. The Tribunal undertook an evaluative assessment of all the relevant evidence, and the Respondent has not identified any material error in the way in which it did so. The conclusion was one reasonably open to the Tribunal and there is no reasonable prospect that it will be interfered with on appeal.

Ground Six

27. As noted by the Respondent, this Ground will follow the conclusion on Ground Three. Since the Tribunal does not consider that Ground Three has a reasonable prospect of success, nor does Ground Six.

28. In the light of the above, the Tribunal does not consider that there is a reasonable prospect of success in respect of any of the Grounds of Appeal, save for Ground Four.

29. The directions given in respect of costs submissions at paragraph 98 of the Decision will be stayed pending the outcome of the appeal.

30. In respect of the Grounds of Appeal where permission has been refused, the Respondent may renew its application for permission to appeal to the Upper Tribunal (Lands Chamber). Guidance as to the content and supporting documentation required is provided by paragraph 11 of the Practice Directions Upper Tribunal (Lands Chamber), dated 2 January 2024. Such an application must be made on form T602, preferably by email, and received by the Upper Tribunal (Lands Chamber) no later than 14 days after the date on which the Tribunal sent this decision on permission to appeal to the Respondent. The Upper Tribunal (Lands Chamber) may be contacted at: 5th Floor, Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL (tel: 020 7612 9710); or by email: lands@justice.gov.uk.

Dated this 26th day of August 2026.

Colin Green (Chairman)