

IN THE FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
LONDON REGION
(RESIDENTIAL PROPERTY)

Case No:
LON/00BG/LSC/2021/0287

IN THE MATTER OF SECTIONS
20C AND 27A OF THE LANDLORD
AND TENANT ACT 1985

BETWEEN:

LIAM PHILIP SPENDER
AND OTHERS

Applicants / Tenants

F.I.T NOMINEE LIMITED
F.I.T NOMINEE 2 LIMITED

Respondent / Landlord

APPLICANTS' FURTHER WRITTEN SUBMISSIONS DATED 2 MAY 2023
IN RESPONSE TO THE RESPONDENT'S SUBMISSIONS DATED 26 APRIL 2023

- 1) These are the Applicants' ("A") written submissions pursuant to paragraph 69 of the Tribunal's determination dated 22 March 2023, as varied by the order of Judge Shepherd made on 13 April 2023.
- 2) The Respondent ("R"), in its further submissions, admits it is unable to offer any evidence from Countryside, its supplier, in support of its case on reasonableness. R offers no figures of its own. Although not stated in terms, R's position appears to be that the Tribunal should reduce the charges to one of the (substantially lower) levels for which A contended at the final hearing, based on estimates R obtained in 2021 in relation to the maintenance of a comparable replacement system.
- 3) It is troubling that R's case on reasonableness was ever pursued at all. R's case was that the charges in question were always reasonable because the contract provided for rental and maintenance. R's further submissions state that Countryside denies this was ever the basis of the contract. It is plain that there was never any basis in fact for R's case. A considers R's conduct in relation to this issue to be entirely improper.

Applicants' Further Submissions dated 2 May 2023

- 4) A understands R's reference to [CB/3213-3313] to be an invitation to the Tribunal to determine that the maintenance costs of the Door Entry System should be no more than R estimated in 2021, being £22,480 per year before VAT or £26,976 including VAT. This is the primary position A adopted at the January hearing. R's estimate of the maintenance costs is summarised at [CB/3314]. Applying this figure to the Door Entry System costs in 2018, 2019 and 2020 results in a reduction as follows:

Year / Charge	2018	2019	2020	Total
Actual Charge (including VAT)	£152,897.04	£140,310.68	£140,310.67	£433,518.39
R's 2021 estimate	£26,976	£26,976	£26,976	£80,928.00
Reduction	£125,921.04 (82%)	£113,334.68 (81%)	£113,334.67 (81%)	£352,587.95 (81%)

- 5) Applying R's 2021 estimate results in a reduction in percentage terms of 81%. The parties are agreed that the same percentage reduction should be applied to all Countryside systems in the relevant years. Using the figures from R's submissions (shown in italics below) and applying the 81% reduction results in the following:

Year / System (including VAT)	2018	2019	2020	Total
Door Entry	£26,976 <i>(£152,897.04)</i>	£26,976 <i>(£140,310.68)</i>	£26,976 <i>(£140,310.68)</i>	£80,928.00 <i>(£433,518.39)</i>
T.V. Distribution	£7,155.28 <i>(£37,659.38)</i>	£7,709.59 <i>(£40,576.81)</i>	£7,709.59 <i>(£40,576.81)</i>	£22,574.46 <i>(£118,813.00)</i>
Covered Car Park Gates & Barriers	£2,419.97 <i>(£12,736.68)</i>	£2,419.97 <i>(£12,736.68)</i>	£2,419.97 <i>(£12,736.68)</i>	£7,259.91 <i>(£38,210.40)</i>
New Total	£36,551.25	£37,105.56	£37,105.56	£110,762.37
Previous Total Charge	£203,293.10	£193,624.17	£193,624.16	£590,541.43
Difference	£166,741.85	£156,518.61	£156,518.60	£479,779.06

Applicants' Further Submissions dated 2 May 2023

- 6) A invites the Tribunal to determine that the charges shown in the table under paragraph 5 above are reasonable for the years 2018, 2019 and 2020.
- 7) Given R's position, A pragmatically will not trouble the Tribunal with any further observations. To the extent not dealt with above, A maintains the position advanced in argument at the January Hearing.
- 8) To save the Tribunal's time later, A notes that the Tribunal's written determination dated 22 March 2023 has not decided A's application under Rule 13(2) for R to repay the £300 Tribunal fees paid by A. In light of A's overall success in the application, A should be grateful if the Tribunal would consider this issue alongside the parties' further written submissions on the Countryside issue. A invites the Tribunal to order R to repay A the £300 Tribunal fees.

LIAM SPENDER

2 May 2023