

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

Case No:
LON/00BG/LSC/2023/0019

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

AND IN THE MATTER OF
PARAGRAPH 5A OF SCHEDULE 11 TO
THE COMMONHOLD AND LEASEHOLD
REFORM ACT 2002

BETWEEN:

LIAM PHILIP SPENDER & ORS

Applicants

-and-

(1) FIT NOMINEE LIMITED
(2) FIT NOMINEE 2 LIMITED

Respondent

CONSENT ORDER

WHEREAS the Applicants have brought an application by the above proceedings (“the **Application**”) for a determination of the sums payable by the Applicants by way of service charge under section 27A of the Landlord and Tenant Act 1985 (“the 1985 Act”) in respect of the on account electricity charges for the period 1 January 2023 to 31 December 2023 (the “**Service Charge Period**”), which were budgeted at £354,799 (the “**Original Budget**”) in respect of St David’s Square, London, E14.

Further, the Applicants also seek an order for the limitation of the landlord's costs in the proceedings under section 20C of the Landlord and Tenant Act 1985 and an order to reduce or extinguish the tenant’s liability to pay an administration charge in respect of litigation

costs, under paragraph 5A of Schedule 11 to the Commonhold and Leasehold Reform Act 2002.

UPON the Respondent confirming both that it will not seek to recover any of its legal or other costs and that it has instructed its managing agent, FirstPort Bespoke Property Services Limited, to carry out the tasks at paragraphs 2, 3 and 4 below.

AND UPON the Parties agreeing that on the date of entry of this order, the final hearing listed for 17 May 2023 shall be vacated and the Application shall be stayed under Rule 6(3)(m), subject to the provisions of paragraph 9 below.

AND UPON the Parties agreeing that nothing in this Consent Order precludes the Applicants (or any of them) from raising any challenges relating to any other costs incurred in the Service Charge Period (whether in relation to on-account demands or once the actual charges have been ascertained), any application relating to electricity charges once the actual charges have been ascertained, or any application involving service charges incurred before the Service Charge Period.

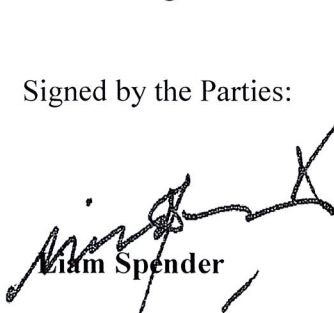
IT IS ORDERED BY CONSENT THAT:-

- 1) The on-account budget for the Service Charge Period in respect of electricity is to be reduced from the Original Budget to £308,018.31 (the “**Agreed Budget**”).
- 2) The Respondent shall issue credits to each of the Applicants, to all other tenants and to all freeholders paying the estate rentcharge in respect of their proportion of the difference between the Original Budget and the Agreed Budget by no later than the date of sending the second on-account demand due on or around 1 July 2022.

- 3) In advance of raising the July 2023 demand, the Respondent shall review the Agreed Budget and issue credits to each of the Applicants, to all other tenants and to all freeholders paying the estate rentcharge in respect of their proportion of the difference between the Agreed Budget and any revision made under this paragraph appropriately so as to take into account each of the following:
 - a) any further discount or subsidies in relation to electricity prices and any discounts received but not taken into account in the Agreed Budget; and
 - b) any better information as to the likely electricity unit rates and standing charges applicable from 1 October 2023.
- 4) At least 14 calendar days before the July 2023 demands are raised the Respondent shall send to the First Applicant / the Applicants' Representative:
 - a) a copy of the Agreed Budget as revised in accordance with paragraph 3 of this Order together with a clear explanation of the Respondent's calculations; and
 - b) copies of all electricity invoices received from EDF in relation to the Service Charge Period not disclosed on 24 March 2023 together with any other document supporting the Respondent's calculations.
- 5) None of the Respondent's legal or other costs (or those of its agents) in relation to the Application or this Order are to be deemed relevant costs under section 18 of the Landlord and Tenant Act 1985, or to be deemed recoverable under the estate rentcharge.

- 6) By no later than 4.30 p.m. on Friday, 12 May 2023, the Respondent shall reimburse the fees paid by the Applicants' Representative in respect of the Application, totalling £300 (the "**Fees**").
- 7) In addition to the Fees and also by no later than 4.30 p.m. on Friday, 12 May 2023 the Respondent is to pay £2,500 to the Applicants' Representative in respect of his time on the Application (the "**Costs**").
- 8) The Fees and the Costs are to be paid to the bank account notified to the Respondent's solicitors by the Applicants' representative in writing on 4 May 2023.
- 9) Provided always that the Respondent has complied materially with its obligations under paragraphs 2, 3, 4, 5, 6, 7 and 8 of this Order, by no later than 31 July 2023 the Applicants shall apply to the Tribunal for the Application to be withdrawn or alternatively, if the Respondent has not materially complied with any of its obligations under this Order, for the stay to be lifted.

Signed by the Parties:



Liam Spender

**First Applicant / Applicants'
Representative**



J B Leitch Limited

Solicitors for the Respondent