[2018] UKUT 0195 (TCC)

Appeal ref: UT/2017/0098

UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER

ROGER BOOT **Appellant**

- and -

BROMFORD HOUSING ASSOCIATION LIMITED **Respondent**

TRIBUNAL: JUDGE ELIZABETH COOKE

Sitting in public on 30 and 31 May 2018 at Centre City Tower, 13 Floor, 5-7 Hill Street, Birmingham, West Midlands, B5 4UU.

The Appellant, Mr Boot, appeared in person.

Matthew Haynes, of Counsel, instructed by Shakespeare Martineau, for the Respondent.

DECISION

1. This is an appeal from a decision of the Land Registration Division of the First-tier Tribunal (Property Chamber) ("the LRD") on 23 May 2017. That decision was about a reference to the LRD from HM Land Registry of an application made by the Appellant, Mr Boot, to be registered as proprietor of land in Oak Lane, Burntwood; the judge directed the registrar to cancel the Appellant's application.
2. The LRD refused permission to appeal, and I refused on the paper application to the Upper Tribunal. At the oral renewal of that application on 23 November 2017 I granted permission to appeal on some but not all of the Appellant's grounds. In particular I found that the judge's findings about credibility were not properly explained, and also that it appeared that the Appellant had not been able to present his case properly because he could not read, and so could not cope with the cross-examination of so many witnesses in a relatively short hearing. In the light of the nature of the grounds of appeal and of the fact that if the appeal were successful there would have be a re-hearing, I directed that the appeal be by way of a re-hearing.
3. I heard the appeal at the Birmingham Employment Tribunal on 30 and 31 May 2018. The Respondent was represented by Mr Haynes of counsel, to whom I am grateful for his assistance. The Appellant was not represented and asked for an adjournment in order to get representation. I refused, on the basis that he had had ample notice of the hearing and that it would be unfair to the Respondent to adjourn at that stage. In the event the Appellant conducted his case competently, showing himself to be able to read the bundle and to question witnesses on the content of their statements, and I am grateful to him for his assistance.
4. The appeal fails; on the balance of probabilities I find that the Appellant has not been in adverse possession of the disputed land at any stage. In the paragraphs that follow I explain my reasons.

The disputed land

5. The land in question in this appeal is a space between 105 and 107 Oak Lane, Burntwood. Oak Lane is a residential street of semi-detached houses. I have not had the benefit of a site visit but I have seen plans and photographs. Looking at the land from the lane, southwards, the land is a rectangular plot of the same length as the neighbouring housing plots. It is bounded on the east by the side wall of number 105; to the west is the garden of 107 Oak Lane. Number 107 is a corner plot on a square of houses. I have been shown a plan of the area which indicates that the matching corner plots all include a space which corresponds to the disputed land; in other words, all the other corner plots are bigger than 107 appears to be, because 107 is separated by a fence

from an area that is included within the boundaries of the similar plots. Nevertheless the disputed land is registered as a separate title with title number SF365941.

6. The registered proprietor of the disputed land is the Respondent, which also owns number 107. Number 107 has been rented since 1976 by Mrs June Meszaros, the Appellant's sister. The Respondent acquired the land in 1997 from Homezone, who in turn acquired it from the Lichfield District Council which owned it when Mrs Meszaros' tenancy was granted in 1976.
7. No copy of the tenancy agreement for number 107 has been found. It is the Respondent's case that the disputed land is probably within the tenancy agreement, but there is no evidence that it is or is not. The Appellant believes that it is not, as does Mrs Meszaros.
8. Currently the land is not in a good state. There is a fence separating it from number 107, from which Mrs Meszaros has removed the back panel to give her access to the disputed land. The Appellant's blue truck is on the land; the Appellant says it has been there since about 1994 apart from a brief spell on the road outside in 2004; Mrs Meszaros says that until 2004 the truck was on her drive. Photographs from around 2008 or 2009 show that the disputed land was not separated from the drive or the garden of number 107 and that the back part was being used as part of Mrs Meszaros' garden.

The evidence for the Appellant

9. The Appellant's evidence was given in his statutory declaration made on 12 November 2014 and sent to HM Land Registry with his application, his Statement of Case, and his witness statement dated 22 January 2018. He added further evidence in the course of the hearing; for the most part, with one exception that I shall mention shortly, I have not attached significance to this and accept that the Appellant may simply not have thought to put everything relevant in writing.
10. His evidence is that until 1976 his Uncle John Hale was the tenant of 107 Oak Lane. He thinks - he says candidly that he presumes - that the disputed land was not part of the tenancy, but he says that his uncle used the land to grow vegetables. At that date, according to the Appellant's statutory declaration, the disputed land was separated from number 107 by a fence; in his witness statement made just over three years later and at the hearing he said it was a hedge, and indeed a thick hedge that you could not see through. He has produced a photograph of the hedge taken in 1978 showing his sister's two children standing in front of a hedge. The frontage on Oak Lane was made up of privet hedge, double wrought-iron gates, and a double garage.
11. The Appellant says that Mr Hale used the disputed land, keeping his car in the garage and using the gates. These were his only means of access to the disputed land because there was no way through the hedge to the garden of 107.

12. The Appellant's statutory declaration says that he took over the use of the land after Uncle John's death (paragraphs 8 and 18). At the hearing he corrected this and said that Uncle John is now dead but did not die at that date; he moved out in 1976, and continued to use the land for a year or so and then the Appellant took over in 1977. He had new locks fitted for the garage and the wrought-iron gates; this was new evidence at the hearing and I do attach significance to that; I come back to it later.
13. From then on the Appellant says he did two things on the land. One was that he kept vehicles and tools on it. He used to repair, spray and trade in cars, and this was where he spent his time when he was not in work as a builder. He would be down there most evenings – more in the summer – and for extended periods when he was out of work. If he was out of work he would buy a car cheaply, do it up, and sell it. The other thing he did on the land was that he cleared it of brambles, rotovated it and grew crops on it every year, particularly potatoes.
14. It is not in dispute that the Appellant's sister June Meszaros (June Allen as she then was) took on the tenancy of number 107 in 1976. He says that his sister and her family had no independent access to the disputed land. He would not allow her husband, Mike, to enter the land except in his presence. He explained that Mike had four cars at this time, and there was insufficient space on the drive of number 107 for Mike to work on them so when a car needed spraying he would take it on to the disputed land and spray it there for him, and then put it back.
15. By his own account the Appellant did not do much with the land in the 1990s – his case is that he had acquired title by the end of 1989. He says that the blue truck has been on the land since about 1993 or 1994, and that since then he has not used the land to work on cars. He last planted crops in 1990; in about 1995 he took the garage down because it was made of asbestos. He says that he never finished working on the truck because there came a point when tools and materials were stolen from the land.
16. At some stage the gates disappeared from the front; the Appellant thinks they were stolen but he cannot say when and did not notice them go.
17. The Appellant says that in around 2004 the hedge was taken down by Mrs Meszaros because she did not like trimming it; he does not say that his permission was asked, but he says that he was happy with the hedge being taken down.
18. In 2004 Mrs Meszaros's family gave her garden a makeover while she was on holiday – this is not part of the Appellant's written evidence but it is not in dispute. The Appellant says that this all happened while he was at work; they brought a digger on to the disputed land and buried rubbish from Mrs Meszaros' garden in it. The truck was taken off the land for a short period and then put back on it.
19. The result of the removal of the hedge and the subsequent makeover can be seen in the photographs I have been shown. Without the hedge, the disputed

land was open to the drive and the back garden of number 107, and number 107's lawn extends across the rear part of the disputed land. A swing and a slide can be seen; the Appellant says his permission was not asked for them and did not need to be because he was perfectly happy for them to be there. He had no problem with these things; it was his land and he was doing what he wanted with it. He says his sister asked him if she could put a kennel and a dog run on the land and he said that was alright.

20. The Appellant says that in 2013 he replaced the hedge with a wooden fence; indeed, he pulled his back while doing so and Mrs Meszaros gave him paracetamol. In 2014 he replaced that wooden fence with a one made of concrete and gravel boards; he says he paid for it. It was at this point that Mrs Meszaros became unhappy with the arrangements; there was an altercation and the police were called. Despite this his statutory declaration concludes "I am not aware of any dispute relating to my occupation of the Land. Certainly no-one has ever raised any issues with me use and occupation of the land or asserted their ownership of the Land." There is no mention in his written evidence of Mrs Meszaros or her family.
21. The Appellant called two more witnesses, his brother Dennis Boot and his sister Mrs Pearl Banks.
22. Mr Dennis Boot's written evidence is that the disputed land was separated from number 107 by a thick privet hedge, six or seven feet high and 4 feet wide so that you could not see through it. He says that the Appellant went on to the land in 1977 and "proceeded to fix cars there"; also that he cleared and rotovated the rear section of the land and grew crops, mostly potatoes. He says the Appellant was never approached or bothered by anyone about the use of the land and never had permission, He says the truck has been on the land for 20 years. He confirms that the Appellant put up the new fence in 2014.
23. That is the extent of Mr Dennis Boot's written evidence. At the hearing he confirmed that once his uncle stopped using the land, in 1977, the Appellant "jumped on it". "He went on it and said "I'll use that". During the years that followed he was a regular visitor helping the Appellant with the cars – and the Appellant was "forever doing cars on there". He said that the Appellant would not allow Mrs Meszaros' husband Mike on the land without him and that Mike used to fix cars on his own side of the hedge. He said that the Appellant hired a rotovator at least ten times. He agreed that the gardening and the work on cars ended in the early 1990s. He agreed that Mrs Meszaros had some access to the land in the 1990s – "scratting around", as he put it, and picking up stones.
24. He was there when the garden makeover took place – it will be recalled that the Appellant was not. He said that the truck was previously on the disputed land, was taken off briefly while rubbish was buried there (his nephew Scott having brought a digger round), and then put back.
25. He was asked if there had been anything on the boundary before the 2014 concrete fence, and he said no, there was definitely nothing after the hedge

was taken down in around 2000 until the concrete fence went up in 2014. The hedge, he said, was too thick to see through; so during the 1980s the disputed land was, so far as his sister Mrs Meszaros was concerned, out of sight out of mind.

26. Turning to Mrs Pearl Banks, she moved into number 107 with Mrs Meszaros when the latter took on the tenancy in 1976; she says the disputed land was not part of the tenancy. She moved out in 1978 to get married and then came back in 1980 when she left her husband, finally leaving to live in her own flat in 1981. Even after that she and June were always at each other's houses and were very close.

27. Mrs Banks said that in these early years – the late 1970s and early 1980s – neither she nor Mrs Meszaros gave any attention to the dusputed land. You could not see through the massive privet hedge. They were both busy with their children; she says June was barely interested in her own garden let alone the and next door. Mrs Meszaros looked after Mrs Banks' children when Mrs Banks was working an 8 – 5 day, and she would come and pick them up at the end of the day. She would spend time there.

28. Mrs Banks says she also spent a lot of time with her brother and knew what his activities were; he took possession of the land, without permission from anyone, in 1977. He cleared it and rotovated it, maintained the hedge, and planted potatoes, and used the garage to fix cars, until the 1990. She says that she and June never went on to the land during this period and "were never bothered about it". She confirms that the Appellant has recently put up a new fence but, like Mr Dennis Boot, has no recollection of a wooden fence put up a year before the concrete one. She too says that his pick-up truck was moved from the back of the land to the front.

29. At the hearing Mrs Banks confirmed that the appellant did not do a lot on the land after the early 1990s; he had a lot to contend with, she says, as he had a number of health problems and was caring for their father. She remembers the last time he had a rotovator there, in 1990, because she noted it in her diary. She said that the Appellant carried on fixing her car in the 1990s. She organised the garden makeover for June and recalls bricks being buried on the disputed land.

30. Three further witnesses for the Appellant gave evidence confirming the presence of vehicles and the trade in cars. Mr Jim Wright, Mr Roy Leach and Mr Graham Humphries have known the Appellant since childhood.

31. Mr Wright remembers the Appellant fixing cars on the land from about 1979. He took cars there for the appellant to fix. He recalls the "really tall hedge" and the gates. A couple of times he would knock on June Meszaros' door to ask where the Appellant was is he was not around, but usually he was there fixing cars. He and others, and Dennis, used to help the appellant fix cars, for example to lift an engine out. He recalls the Appellant's blue truck being on the land in about 1993 or 1994. But he stopped taking cars round there in the

early 1980s, around 1984, because by then he could afford better cars that didn't need mending so often.

32. Mr Leach recalls that during 1980 to 1984 he bought a couple of cars from the Appellant - a Hillman Avenger and a Hillman Minx. He recalls the Appellant being present on the land for quite a number of years doing different projects and maintaining the land. He recalls the large privet hedge and the gates; he recalls the potato crop and vegetables., which he thought the Appellant was quite proud of.
33. Mr Humphries wrote a letter, rather than a witness statement, addressed "To whom it may concern" and dated 21 January 2018. It says that he recalls the Appellant occupying the land in the late 1970s, using it to repair and park vehicles. He cleared the undergrowth and rotovated the land to plant vegetables. He says that he remembers the Appellant having "a presence on this land" and that he used and maintained it from the late 1970s onwards.
34. At the hearing he pinned down the first time he was aware of the Appellant on the land to 1977, because that was the year he started work. He said at the hearing that he did not see the Appellant gardening or rotovating; but the Appellant's gardening plans came up in conversation at the pub and he became aware later that the ground had been cleared.

The evidence for the Respondent

35. The first witness for the Respondent was Mrs June Meszaros, the Appellant's sister. She made a written statement, on which she was cross-examined. Initially Mr Boot was hesitant about questioning her and I suggested that I might ask her some questions and he said he was content for me to do so. I asked Mrs Meszaros a number of questions about her evidence and then at my invitation Mr Boot took over.
36. She confirmed that she has been the tenant of 107 Oak Lane since 1976, and that the disputed land is not part of her tenancy. She says that she has had access to the disputed land since about 1980 and has "had continuous movement" on the land since 1989, after her husband left (she says 1986 in her written statement but corrected this at the hearing). At that stage she began, as she put it in her oral evidence, to "tiptoe on to the land." I asked what she meant by this, and she explained that she accessed the land and started clearing the tall weeds, and going a bit further each time. I asked how she accessed the land and she said that there was a gate in her back garden through the hedge.
37. In her written statement she said that she has been caretaker of the land up to today. She also said that she was "acting on squatters rights"; I make no comment on that since it is not relevant to this appeal.
38. Mrs Meszaros explained further that although in the early years of her tenancy she did not do anything on the disputed land, her husband did. He used to use the garage but he did not secure it. He used to work with the Appellant and

work on his cars on the disputed land. At one stage he dug a big hole in the ground and she told him to fill it in.

39. The Appellant challenged this in cross examination, and gave further evidence of incidents where he Mike did work together on cars but only on the drive to 107 – one in particular where they were working on a car and one of the children ruined the job. Mrs Meszaros did not recall these incidents and insisted that Mike had access by himself. She did not accept that the appellant grew vegetables there, nor that he rotovated the land, and said that he was not there more than half a dozen times. She said that the privet hedge was not particularly thick and that you could see through it; if he had been there all the time she would have known.
40. Mrs Meszaros' statement then goes on to recount what happened more recently when she was being required by the Respondent to remove rubbish from outside her house and was also asked to move the truck from the disputed land. She explained that it was on her driveway until 2004 and was later on the disputed land after the garden makeover. She says she allowed it to stay on the land after that but of course that led to problems with the Respondent, whose officers were concerned about the presence of an unsightly and untaxed vehicle on the land.
41. While this was going on her brother Dennis stood by her, and he mentioned to her that the Appellant had offered to put a fence up and to get rid of the kennel and the dog run She agrees that the Appellant put the fence up; she says her son paid some of the cost but the Appellant disputes this. It is agreed that he took out the dog kennel and the dog run, the dog having died in 2012, but he says he was doing so as owner whereas Mrs Meszaros says he was offering to help her.
42. Mrs Meszaros explained that the Appellant then offered to put a fence up in place of the former hedge, and she says that he then started to ask about building a house on the land. He made an application to HM Land Registry which was rejected because the boundary had been open. She says she wrote to Land Registry and said that no-one had squatters' rights on the land except herself.
43. Finally in 2014 Mrs Meszaros says that the Appellant and his son started putting up the new concrete and gravel board fence and tried to exclude her from the disputed land. At this point there was an altercation, threats were made and the police were called.
44. The Respondent also called Mrs Emma Jackson who has lived at number 105 Oak Lane since 2002. She gave evidence to the effect that she knows Mrs Meszaros and has accessed the disputed land with her permission, both to clean her side windows and occasionally to get over the fence into her own back garden. She said that she has not seen the Appellant on the disputed land.
45. The Respondent called Mrs Claire Caley-Bolton, a Portfolio Adviser for the Respondent. Her written evidence related to recent events and to her dealings with Mrs Meszaros; it does not seem to me to add anything relevant to the

appeal. But she was able to confirm that the tenancy agreement of number 107 cannot be found and that a thorough search has been made.

46. Th Respondent called Mr Lee Wagg, a Portfolio Surveyor for the Respondent; again his involvement relates only to the last few years and is not material. Finally the Respondent called Mr Jason Holder, its Head of Property Maintenance. He has lived in the area since he was born in 1968. His witness statement is relatively brief; he says that he recalls the privet hedge which used to stand between the disputed land and number 107 and says that it was in poor condition and did not create a clear boundary. He never saw anyone gardening or fixing cars on the disputed land. In cross-examination he said more about his activities as a teenager, and made it clear that he was very familiar indeed with the area.

Discussion and conclusions

47. The Appellant's case is that he acquired title to the disputed land by virtue of his possession from 1977 to 1989. He is specific about those dates.
48. The Respondent's case rests on Mrs Meszaros' evidence that the Appellant did far less on the land than he claimed and that in any event he only thought about applying to register a title in five or six years ago.
49. At the heart of this dispute is a family quarrel. In happier times until 2013 or so Mrs Meszaros was on good terms with her brothers and sisters, but sadly that is no longer the case. There is a direct conflict between the evidence of Mrs Meszaros and the evidence of the Appellant; in support of what Mrs Meszaros has to say the Respondent can call only Mrs Jackson and Mr Holder. On the other hand several witnesses support what the Appellant says about his use of the land in the crucial period.
50. The conflict in the evidence can to some extent be explained by people seeing things differently and remembering differently and memories becoming polarised as a result of the family conflict. I take the view that the Appellant did do some gardening and did fix cars on the disputed land between 1977 and 1989, but to a rather less extent than he and his witnesses say and rather more than Mrs Meszaros recalls. Memories about matters of degree have, I suspect, been influenced by the quarrel. But there are direct conflicts in evidence on some crucial points and on these points I take the view that Mrs Meszaros is more likely to be telling the truth than the Appellant. I say that because certain aspects of the Appellant's evidence, and those of his witnesses, are not plausible and appear to have been put together in order to meet the case against him.
51. I have in mind in particular the statutory declaration sent to HM Land Registry in support of his application in 2014. He says very deliberately in that declaration that his uncle died in 1976. At the hearing he said that that was his solicitor's mistake; but I do not believe him. He is certainly able to read and would have spotted the error if that had been what it was. I take the view that he put it that way in 2014 in order to make a clearer case to HM Land

Registry, and then corrected himself when matters were referred to the Tribunal because he knew that other witnesses would be able to contradict him.

52. I also have in mind the conflict between the Appellant's evidence that there was no way into the disputed land from the garden of number 107 before the hedge was taken down. It is simply not plausible that if - as seems to be uncontroversial – Mr Hale used the disputed land he would not have had a gate in the hedge. And Mrs Meszaros was quite clear that there was a gate; her evidence of "tiptoeing" ever further into the disputed land as she cleared it is consistent with her doing so from the back garden and not through the gates or the garage. It is of course possible that the Appellant was not aware of the side gate, it being at the back of the disputed land whereas he was working on cars at the front – particularly if he was there rather less often than he now thinks he was. Whether he has lied about the gate or was unaware of it, I prefer Mrs Meszaros' evidence because it is more plausible and so I find that there was a gate.
53. I also reject the Appellant's evidence that he did not allow Mike Meszaros on to the land except in his presence, again because it is implausible. In the circumstances where it was known that the previous tenant had used the land, and there being a gate from the back garden on to the land, it is not at all likely that Mr Meszaros would have accepted that the Appellant was in control of the land and could exclude him. If the Appellant had tried to do so I have no doubt that a family quarrel would have erupted many years earlier than it did. I accept Mrs Meszaros' evidence that although she did not have time and energy to do anything on the land in the early years (consistent with what Mrs Banks says), her husband did.
54. Another critical issue on which there is a conflict of evidence is whether the Appellant had a key to the garage and the wrought-iron gates as he claimed. This is the one point where I felt that the absence of a crucial fact from his written evidence was telling. He mentioned the locks only in response to a question from me. The Appellant is not unaware of the law, and he would know the significance of his having the key to a locked door and a locked gate. Had he had changed the locks and kept a key he would surely have said so at the earliest opportunity, and I find that this part of his evidence is not true.
55. The fact that the Appellant did not notice when the gates were stolen reinforces the likelihood that they were not locked and not important. Indeed, when he accused Mrs Meszaros of having stolen his potatoes, I asked him how she got into the land, and he said that she had climbed over the gate because it was not tall. This is again implausible and I think that the Appellant made up details as he needed to; I do not believe either that Mrs Meszaros climbed the gate or that she stole the potatoes.
56. Accordingly I find that there was a garden gate, that Mr Meszaros did have access to the land and did make use of it in the 1980s, and that the Appellant did not change the locks on the gates and the garage and keep keys to them.

57. I can therefore pause at this point and conclude that he was not in adverse possession of the land from 1977 to 1989, because to be in adverse possession he must have excluded the Respondent and the world at large, including Mrs Meszaros and her family, and he did not do so.

58. That remains the case even though I accept that the appellant worked on cars on the land and did some gardening, perhaps even rotovated it although I think it unlikely that he would have done so ten times since it is unlikely that he would need to rotovate so often. The Appellant in his enthusiasm for his claim has put his recollections as strongly as he can, and his supporters have done the same. Perceptions about matters of degree are often unreliable. Mr Holder's evidence is interesting; he was not living in Oak Lane but his evidence at the hearing made it clear that he knew the place very well, and if the Appellant had been there as often an as exclusively as he claims then it is unlikely that Mr Holder would never have seen him there.

59. For completeness I find that in the light of Mr Holder's evidence it is likely that it was possible to see through the privet hedge. It may well be that the hedge was thicker in some places than in others. And I find that the blue truck was on the drive of number 107 until it was moved on to the disputed land in 2004. I make that finding first because I have already found Mrs Meszaros' evidence to be in general more credible than that of the Appellant, and second because by the time the Appellant acquired the truck the hedge was (according to Mrs Meszaros) gradually being taken down; it is therefore likely that although it was on the drive, it looked as if it was on the disputed land, and some of the witnesses may well have remembered incorrectly.

60. In order to establish title by adverse possession the Appellant must show not only factual possession – on which I have found against him – but also the intention to possess, and to exclude the world as a whole including the Meszaros family.

61. On this point direct evidence is lacking; no-one other than the Appellant can say what were his intentions from 1976 for the next 28 years or so. His own evidence cannot be decisive on this point; it is well-established that in these circumstances there must be further evidence from which his intentions can be seen (*Powell v McFarlane* (1979) 38 P & CR 452 at p.476). But the Appellant's actions from 1977 to 1989 do not demonstrate an intention to exclude the world, on the facts that I have found.

62. Moreover, what happened from the 1990s onwards is significant. The hedge was taken down, without his permission. The fact that he did not mind is not the point. Then in 2004 the disputed land was dug up, without the Appellant's knowledge or permission, for rubbish to be buried. The garden of number 107 was spruced up, and subsequent photographs show that the disputed land looked like part of the garden of number 107. The grass grows across the back, the dog has a run, the children have playthings. If the Appellant had regarded the land as his own I do not believe that he would have allowed the disputed land effectively to be annexed to the garden of 107. The arrangements from

2004 onwards are consistent with the way that Mrs Meszaros presents things: the disputed land was an area that she and her family used, with increasing confidence, culminating in the removal of the hedge and then the garden makeover. The Appellant's use of the disputed land was consistent with this and not with an intention to exclude the world at large and the Meszaros family in particular.

63. Accordingly I find that the Appellant did not acquire title to the disputed land in 1989; he was not in factual possession and it is clear that he did not intend to take exclusive possession of it.

64. It is therefore likely that Mrs Meszaros' account of what happened in 2013 is true, namely that the appellant at that point had the idea of making an application for title by adverse possession, and that she refused to support him. And that is why his statutory declaration to HM Land Registry in 2014 makes no mention of the crucial fact that the property next door was let to his own sister.

65. Accordingly the appeal fails and the decision of Judge John Hewitt in the LRD is upheld.

66. In principle the Respondent is entitled to costs and may make an application if the matter cannot be agreed.

ELIZABETH COOKE
TRIBUNAL JUDGE

RELEASE DATE: 13 June 2018