



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case References** : **LON/00AP/HMA/2015/0011**

**Property** : **232 West Green Road, N15 5AP**

**Applicant** : **L.B. Haringey**

**Respondent** : **Ms Katia Goremsandu**

**Representatives** : **Ms S Stewart (Housing Officer for  
L.B. Haringey)  
Ms M Hardy (Senior  
Environmental Health Officer for  
L.B. Haringey)**

**Type of Application** : **Application to set aside decision  
(Rule 51)  
Housing Act 2004 – Rent  
Repayment Order (Sections 73 & 74  
Housing Act 2004)**

**Tribunal** : **Mr M Martynski (Tribunal Judge)  
Ms S Coughlin**

**Date of Application** : **16 October 2015**

**Date of Decision** : **13 January 2016**

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**DECISION ON APPLICATION TO SET ASIDE**

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## **DECISION SUMMARY**

1. Ms Goremsandu's application to set aside the tribunal's decision dated 13 October 2015 is refused.

## **BACKGROUND**

2. On 13 October 2015, following a hearing on 7 October 2015 (at which Ms Goremsandu was not present); the tribunal issued its decision on the Local Authority's application for a Rent Repayment Order.
3. By letter addressed to the tribunal dated 16 October 2015, Ms Goremsandu stated that she had received the tribunal's decision. She went on to say:-

I am kindly asking the Tribunal to reopen if need be this case as I have not been notified about it. It is very strange that none of your other papers have reached me but the final decision.

4. We have taken that letter as an application to set aside our decision pursuant to Rule 51 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the Rules').

## **THE TRIBUNAL RULES**

5. The following Rules are applicable in this application:-

### **Hearings in a party's absence**

34. If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—
  - (a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and
  - (b) considers that it is in the interests of justice to proceed with the hearing.

### **Setting aside a decision which disposes of proceedings**

- 51.—(1) The Tribunal may set aside a decision which disposes of proceedings, or part of such a decision, and re-make the decision or the relevant part of it, if—
  - (a) the Tribunal considers that it is in the interests of justice to do so; and
  - (b) one or more of the conditions in paragraph (2) are satisfied.

- (2) The conditions are—
  - (a) a document relating to the proceedings was not sent to, or was not received at an appropriate time by, a party or a party's representative;
  - (b) a document relating to the proceedings was not sent to or was not received by the Tribunal at an appropriate time;
  - (c) a party, or a party's representative, was not present at a hearing related to the proceedings; or
  - (d) there has been some other procedural irregularity in the proceedings.

- (3) A party applying for a decision, or part of a decision, to be set aside under paragraph (1) must make a written application to the Tribunal so that it is received—

- (a) within 28 days after the date on which the Tribunal sent notice of the decision to the party; or
- (b) if later, within 28 days after the date on which the Tribunal sent notice of the reasons for the decision to the party.

#### **EVENTS PRIOR TO TODAY'S HEARING**

6. By letter dated 26 November 2015, the tribunal's Case Officer wrote to Ms Goremsandu in the following terms;

Further to earlier correspondence, your letter dated 16 October 2015 has been treated by the Tribunal as an application (pursuant to Rule 51 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013] to set aside the decision dated 13 October 2015 on the ground that the respondent was not notified of the hearing which took place on 7 October 2015.

A hearing has been set as there is likely to be a dispute of fact as to whether the Respondent was aware of, or should have been aware of the proceedings and the hearing of those proceedings.

**Accordingly both parties should be present at the hearing, on Wednesday 13 January 2016 at 10.00am (time estimate is 1.5 hours).**

If any party is not present at the hearing (and has not asked, in good time, for the hearing to be re-arranged), it is likely that the hearing will proceed and that the application will be determined in that party's absence. If a party considers that they are not able to attend the hearing, they must immediately contact the Tribunal to explain why they are not able to attend and must give dates for the month of January 2016 when they will not be able to attend a hearing. The Tribunal will then consider whether or not the hearing can be re-arranged for another date in January 2016.

7. Ms Goremsandu sent a letter to the tribunal dated 17 December 2015 asking for the hearing on 13 January to be re-arranged saying that, as she was very busy with urgent cases during that time. That letter was considered by a procedural Judge who refused the application. Ms Goremsandu was notified in writing of this decision.
8. Ms Goremsandu then sent further letters to the tribunal dated 21 & 30 December 2015. Neither of those letters addressed the question to be dealt with at today's hearing.

#### **TODAY'S HEARING**

9. On 13 January 2016, prior to the hearing, Ms Goremsandu attended the tribunal offices and hand delivered a further letter accompanied with a number of documents. There was nothing in that letter or the documents with it that addressed the question to be dealt with at today's hearing. Ms Goremsandu then left the tribunal offices prior to the hearing stating that she had a medical appointment (no proof of this was supplied).

10. The Local Authority was present at the hearing today in the form of Mesdames Hardy & Stewart.

### **Decision**

11. Prior to the hearing on 7 October 2015, we considered, in accordance with Rule 34, whether to proceed with the hearing in the absence of Ms Goremsandu (the representatives from the local authority being present and able to proceed).
12. We considered the papers provided for that hearing by Ms Goremsandu and we considered the tribunal's own file.
13. From the papers provided by Ms Goremsandu, it appeared that there was something of a history of her complaining that she had not received correspondence from the local authority. Ms Goremsandu told the local authority that she did not live at the property that is the subject of these proceedings. She provided the local authority with a postal address. That address is simply a mail service address (Suite 278, 22 Notting Hill Gate, London W11 3JE).
14. It is the mail service address provided by the Ms Goremsandu to the local authority that was set out as Ms Goremsandu address in the local authority's application for a Rent Repayment Order. That address was used by the tribunal in communicating with Ms Goremsandu throughout the proceedings leading to the final hearing, this includes the letter to Ms Goremsandu informing her of the hearing on 7 October 2015 and the letter sent to her following the hearing and enclosing the tribunal's decision. Ms Goremsandu has continued to put this mail service address on her further correspondence with the tribunal.
15. We were satisfied at the outset of the hearing on 7 October 2015 that reasonable steps had been taken by the tribunal to notify the Respondent of the proceedings and of the final hearing.
16. At the hearing on 7 October 2015, we went on to conclude that, as we had been provided with all the necessary papers by the local authority and as it was represented and ready to go ahead with the hearing on 7 October 2015, it was in the interests of justice to proceed that day.
17. No further material or evidence has been provided to us to persuade us that Ms Goremsandu was not aware of the hearing on 7 October 2015 or that the proper steps to make her aware of that hearing were not taken.
18. Accordingly therefore we refuse the Respondent's application.

**Mark Martynski, Tribunal Judge**  
**13 January 2016**

## **ANNEX - RIGHTS OF APPEAL**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.