



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

Case Reference : **LON/00BH/HPO/2014/0018**

Property : **Ground Floor Back Addition Flat,
305 Higham Hill Road, London E17
5RG**

Applicants : **Mr S Ali**

Representative : **Mr Hather Ali – of Star Lettings –
managing agents**

Respondent : **London Borough of Waltham
Forest (“the Council”)**

Type of Application : **Application for costs pursuant to
rule 13 of the Tribunal Procedure
(First-tier Tribunal) (Property
Chamber Rules 2013 following an
Appeal Under Schedule 2
Paragraph 7 (1) of the Housing Act
2004 Appeal against a prohibition
order**

Tribunal Members : **Ms M W Daley LLB (Hons)
Ms N Hawkes
Mr. Roberts Dip Arch RIBA**

Date of Decision : **30 September 2015**

DECISION

1. **The Tribunal grants an order for costs against the Applicant under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber Rules 2013).**
2. That the Respondent be awarded cost pursuant to their application for cost dated 16 March 2015.

The Background

1. The Applicant appealed against a prohibition order served by the London Borough of Waltham Forest served on 12 November 2014.
2. The Applicant appealed to the Tribunal against the order, the appeal to the tribunal was received on 10 December 2014.
3. Pursuant to a Decision dated 27 April 2015 in which the Tribunal made the following determination-:
- 4.

The Tribunal noted that other than the Application for appeal, no further statement of case or any other written submissions had been served by the Applicant. Neither was there any inspection report or any documentary evidence to show that there was a realistic prospect that the rear extension could be repaired and brought up to the appropriate standard.

The Tribunal noted that although Mr Ali stated that he was authorised to act on behalf of the Applicant, he had very little personal knowledge of the matters in issue and was able to offer very limited assistance to the Tribunal.

The Tribunal considered that although a number of issues had been raised at the case management conference, Mr Ali was not in a position to address these issues. Given this, the Tribunal did not consider it necessary to address each of these issues separately, as it was satisfied that these issues would not materially affect the outcome of this hearing.

The Tribunal having inspected the premises, were able to confirm that the condition of the premises was substantially as set out in the report prepared by Ms Lovett, save that redecoration had been carried out to the interior of the premises, The Tribunal noted that Mr Lines was also of this view, however the Tribunal attached limited weigh to his written witness

statement, as his inspection post-dated the service of the Prohibition Order.

In all the circumstances having considered the appeal, and having inspected the property, the Tribunal are satisfied that the notice dated 12 November 2014 ought to be upheld.

*At the hearing Mr Lyell indicated that the Respondent wished to make an application for cost under regulation 13 of the 2013 rules The Tribunal are satisfied that the circumstances in this case are such that an order is appropriate, The Respondent shall **within 21 days** set out the details of the cost. The Applicant thereafter to respond to the application for cost (should they wish to oppose it) **21 days thereafter**.*

5. The Applicant's in their submissions stated " It is submitted that the Appellant conducted the appeal proceedings in a manner that was unreasonable by failing to file any evidence in support of their appeal dated 26 January 2015 as ordered by the Tribunal or in fact at all..."
6. Pursuant to the Tribunal determination, the Applicant was directed to file a reply to the Application by 8 June 2015. The Applicant has failed to file a reply.
7. Pursuant to the directions which were given orally at the hearing, the Respondent filed a schedule of cost in the sum of £1013.88.

The Decision of the Tribunal and Reasons for the tribunal's decision

The Rules

Orders for costs, reimbursement of fees and interest on costs

13.

— (1) The Tribunal may make an order in respect of costs only—

(a) under section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;

(b) if a person has acted unreasonably in bringing, defending or conducting proceedings in—

(i) an agricultural land and drainage case,

(ii) a residential property case, or

(iii) a leasehold case; or

(c) in a land registration case.

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on an application or on its own initiative.

(4) A person making an application for an order for costs—

(a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and

(b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.

(5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends—

(a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or

(b) notice of consent to a withdrawal under rule 22 (withdrawal) which ends the proceedings.

(6) The Tribunal may not make an order for costs against a person (the “paying person”) without first giving that person an opportunity to make representations.

(7) The amount of costs to be paid under an order under this rule may be determined by—

(a) summary assessment by the Tribunal;

(b) agreement of a specified sum by the paying person and the person entitled to receive the costs (the “receiving person”);

(c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an application to a county court; and such assessment is to be on the standard basis or, if specified in the costs order, on the indemnity basis.

(8) The Civil Procedure Rules 1998(a), section 74 (interest on judgment debts, etc) of the County Courts Act 1984(b) and the County Court (Interest on Judgment Debts) Order 1991(c) shall apply, with necessary modifications, to a detailed assessment carried out under paragraph (7)(c) as if the proceedings in the Tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply.

(9) The Tribunal may order an amount to be paid on account before the costs or expenses are assessed.

8. The Tribunal finds that the Applicant acted unreasonably in bringing this claim in that the Applicant did not provide any grounds for the appeal. The Respondent was put to the cost and inconvenience of defending the proceedings.
9. The Tribunal finds that the Applicant in not attending the hearing in person or otherwise setting out the grounds for the appeal acted unreasonable in bringing these proceedings.
10. The Tribunal having considered the costs’ schedule finds that the sum of £1013.88 is reasonable.
11. **The Tribunal orders the Applicant to pay the Respondent’s cost in the sum of £1013.88.**

Name: Judge Daley

Date: 30 September 2015