



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

Case Reference : **MAN/00CA/LRM/2017/0010**

Property : **Flats 1 to 18, Briton Court, Britonside Avenue,
Kirkby, Liverpool L32 6SZ**

Applicants : **Briton Court RTM Company Limited
(represented by David Jarvis)**

Respondents : **Ground Rent Trading Ltd and
The Boffin Management Company Ltd**

**Type of
Application** : **Application for a determination of costs
payable by the Applicants, pursuant to
section 88(4) of the Commonhold and
Leasehold Reform Act 2002**

Tribunal Members : **Mr J R Rimmer
Mr J Faulkner**

Determination date : **3rd June 2019**

Date of Decision : **24th July 2019**

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Order

The Respondent's application for costs is Struck out in accordance with Rule 9(3)(a) Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 as the Respondent has failed to comply with the directions dated 8th November 2018 and the warning contained therein.

A. Application and background

- 1 This application is made by Ground Rent Trading Limited in relation to costs it has incurred in defending an application from the Applicant under the right to manage provisions of Part 2 Commonhold and Leasehold Reform Act 2002 ("the Act"), the Applicant having applied under those provisions to take on the right to manage the development at Briton Court.
- 2 The relevant application in respect of the right to manage has been struck out by the Tribunal on the ground that it had no jurisdiction to hear the application which had apparently been superseded by a subsequent notice.
- 3 Under the provisions of Section 88 of the Act the RTM company is responsible in certain circumstances for costs incurred by other parties. The section provides:
 - (1) A RTM company is liable for reasonable costs incurred by a person who is
 - (a) Landlord under a lease of the whole or any part of the premises
 - (b) Party to such a lease otherwise than as landlord or tenant
 - (c)...In consequence of a claim notice given by the company in relation to the premises
 - (2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs
 - (3) A RTM is liable for any costs which such a person incurs as party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.
 - (4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by the appropriate tribunal.

- 4 Ground Rent Trading was at the time of the application to the Tribunal, the landlord of Briton Court, and was rightly entitled to incur professional costs in defending the application. As that application was dismissed by it being struck out this Respondent is entitled to seek its costs under the provisions of Section 88.
- 5 The Respondent suggests that those costs, being the professional fees of Darlington, Hardcastles, Solicitors, amount to £3,840.00 and it has applied accordingly to recover them. They were placed before the Tribunal by its agents on 25th October 2018 in accordance with Section 88(4) of the Act.
- 6 Thereafter a Deputy Regional Judge of the Tribunal made appropriate directions for the further conduct of the matter on 8th November 2018.
- 7 Direction 1 is of particular importance. It provides-
Within 21 days of the date of these Directions, unless already provided, the Respondents shall serve a statement of case and an itemised schedule, showing the breakdown of the costs claimed. In respect of each item the schedule must show the work done; the status of the person carrying out that work; the charge rate and the time taken.
- 8 No such information has been supplied by the Respondent in compliance with that direction.
- 9 The directions contain a very clear warning in relation to any non-compliance, including the sanction of striking out of the application.
- 10 The Tribunal therefore STRIKES OUT the application for costs under the provisions of Rule 9(3)(a) Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 as the direction has not been complied with.

J R RIMMER (Judge)
3rd June 2019