



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

**Case reference** : **LON/00BK/LSC/2021/0222**

**HMCTS code (paper, video, audio)** : **P: PAPERREMOTE**

**Property** : **Flat 1, 197 Queen's Gate, London, SW7 5EU**

**Applicant** : **Ms H Pugmire**

**Representative** : **In Person**

**Respondent** : **197 Queens Gate Ltd**

**Representative** : **Gateley Legal**

**Type of application** : **Costs**

**Tribunal member(s)** : **Mr A Harris LLM FRICS FCI Arb  
Mr S Mason BSc FRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of decision** : **12 May 2022**

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**COSTS**

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**Covid-19 pandemic: description of determination [**

This has been a determination on the papers which has not been objected to by the parties. The form of remote hearing was P:PAPERREMOTE,. A face-to-face hearing was not held because all issues could be determined in a remote on paper. The documents that the tribunal was referred to are in a letter received on 11 April 2022, the contents of which the tribunal has noted.

## **DECISION OF THE TRIBUNAL**

1. The tribunal has considered the respondent's application for costs under rule 13(1)(b)(ii) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 for an award of costs arising out of the decision of the tribunal dated 14 March 2022 and determines that it will not make an order for costs.

## **REASONS FOR THE DECISION**

2. The respondent has applied for a costs order on the basis the tribunal criticised the applicant in paragraph 51 of its decision and that the applicant acted unreasonably in bringing the case to the tribunal. Costs are sought in the sum of £5,175.00

3. Paragraph 51 reads

*It is not entirely clear to the tribunal what has triggered such a time-consuming dispute on a relatively modest service charge in a leaseholder owned and controlled block....*

4. The applicant in reply sets out her reasons for bringing the case as the company was not running properly. Paragraph 51 does not establish that the applicant acted unreasonably or wasted costs. While paragraph 51 refers to a modest service charge there is no monetary threshold for bringing a case to the tribunal. The decision of the Upper Tribunal in Willowcourt is attached to the representations.

5. There are three parts of the decision in Willowcourt (LRX/90/2015) which are pertinent to this case.

6. Firstly, wasted costs in paragraph 16 onwards of the decision. Para 18 defines wasted costs as costs incurred by a party "as a result of any improper, unreasonable or negligent act or omission on the part of a representative. The tribunal is satisfied that there are no wasted costs in this case.

7. Secondly, unreasonable behaviour considered from paragraph 22 onwards

*An assessment of whether behaviour is unreasonable requires a value judgment on which views might differ but the standard of behaviour expected of parties in tribunal proceedings ought not to be set at an unrealistic level....*

*"Unreasonable" conduct includes conduct which is vexatious, and designed to harass the other side rather than advance the resolution of the case. It is not enough that the conduct leads in the event to an unsuccessful outcome.*

8. Having considered its decision the tribunal is quite unable to read the conduct of the applicant as unreasonable when measured against that standard. Paragraph 51 of its decision goes nowhere near establishing unreasonable behaviour.

9. Finally, The Upper Tribunal considered the position of unrepresented parties. At paragraph 34 the Upper Tribunal said

*We also find support in Cancino for our view that rule 13(1)(a) and (b) should both be reserved for the clearest cases and that in every case it will be for the party claiming costs to satisfy the burden of demonstrating that the other party's conduct has been unreasonable.*

10. It follows from our decision set out at paragraph 8 above that the claim for costs fails.

**Name:** A Harris

**Date:** 12 May 2022

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).