



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

Case reference : **BIR/44UF/HMK/2023/0006**

Properties : **18 Willes Terrace, Leamington Spa,
CV31 1DL**

Applicant : **Mr Matthew Funnell**

Representative : **None**

Respondent : **Mr Benjamin Huggan**

Representative : **Mr Timothy Huggan**

Type of application : **Application for a rent repayment order
under the Housing and Planning Act
2016**

Tribunal members : **Judge C Goodall
Mr R Chumley-Roberts MCIEH, J.P.**

**Date and place of
hearing** : **Paper determination**

Date of decision : **05 November 2024**

**DECISION ON AN APPLICATION FOR REIMBURSEMENT OF
FEES**

Background

1. On 7 October 2024, the Tribunal issued a decision on the Applicant's application for a rent repayment order in this case, following a hearing. The order was that a rent repayment order be made in the sum of £1,810.43. The amount sought by the Applicant was £6,376.00.
2. Subsequently, the Applicant has applied for an order that his tribunal fees of £300.00 should be reimbursed under Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules").
3. The Tribunal has determined the fee reimbursement application without a hearing, having received written submissions from both parties.

The Applicant's submissions

4. The Applicant drew the Tribunal's attention to a number of FTT decisions on rent repayment applications in which fee reimbursement orders had been made and submitted that these demonstrated there was a strong precedent and a common convention that fees should be reimbursed in successful rent repayment application cases.

The Respondent's submissions

5. The Respondent drew attention to Rule 13(1) which permitted an order only where a person had acted unreasonably in bringing, defending, or conducting proceedings. He disputed that his conduct had been unreasonable.
6. He also drew attention to his financial circumstances. His income was only around 50% of the recommended minimum standard in the UK. Because of mental health issues, he has been advised that he is unlikely to be able to return to work, until early 2025.

Discussion and decision

7. The basis for making a fee reimbursement order is contained in Rules 13(2) and (3) of the Rules, which provide:
 - “(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”
8. The Tribunal's interpretation of these provisions is that making a fee reimbursement order is a separate and distinct power from the making of a costs order under Rule 13(1), so that we are not constrained by any

provision only allowing a fee reimbursement order if the paying parties conduct is unreasonable.

9. Rule 13(2) does not prescribe any particular approach to the decision on a fee reimbursement application. Our discretion is unfettered, save that we must in all circumstances have regard to the overriding objective in Rule 3 to deal with cases fairly and justly.
10. There is no automatic right to a fee reimbursement even if a party is successful. The Tribunal is not a costs shifting jurisdiction and normally, fees and costs will lie where they fall.
11. Rent repayment orders pose a particular challenge to the establishment of what is fair and just, as, unlike many other types of application considered by the Tribunal, the applicant has normally not suffered any financial loss. Any award is a windfall. Additionally, the concept of “justice” requires the Tribunal to temper any award made in the light of the human consequences to the paying party.
12. Our view is that it is fair for us to consider making a fee reimbursement order in this case, but it would not be fair to order all of the fees to be reimbursed in the light of the above considerations. However, we can see that the Applicant’s case is not wholly without merit.
13. Our decision is to order, pursuant to Rule 13(2), that the Respondent must pay to the Applicant one half of the fees he paid, in the sum of £150.00.

Appeal

14. Any appeal against this decision must be made to the Upper Tribunal (Lands Chamber). Prior to making such an appeal the party appealing must apply, in writing, to this Tribunal for permission to appeal within 28 days of the date of issue of this decision (or, if applicable, within 28 days of any decision on a review or application to set aside) identifying the decision to which the appeal relates, stating the grounds on which that party intends to rely in the appeal, and stating the result sought by the party making the application.

Judge C Goodall
First-tier Tribunal (Property Chamber)