



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

Case reference : **LON/ooAY/LSC/2025/0866**

Property : **Flat B, 31 Offley Road, London, SW9 0LR**

Applicant : **Olivier Guerindon**

Representative : **In person**

Respondent : **Frogmill Investments Ltd**

Representative : **Ian Jones (Director)**

Type of application : **Costs under Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013**

Tribunal members : **Mr A Harris LLM FRICS FCIArb**

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

Date of decision : **8 December 2025**

DECISION

Decisions of the tribunal

- (1) The tribunal makes the determinations as set out under the various headings in this Decision
- (2) The tribunal does not make an order under Rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

The application

1. The Applicant seeks a determination under Rule 13(1)(b) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 for costs amounting to £5,264 being £4050 of litigant in person time and £1214 solicitors costs.

The hearing

2. The case was decided on the papers. The Applicant appeared in person and the Respondent was represented by Mr Ian Jones, a director. Both parties made written submissions.

The background

3. The property which is the subject of this application is a mid-terrace 4 storey house converted to form 3 flats
4. The Applicant holds a long lease of the property which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.
5. The tribunal made a decision on the substantive issues dated 7 November 2025 of 24 paragraphs covering 3 issues.

The Law

6. The tribunal is a no costs jurisdiction apart from orders under section 20C of the Landlord and Tenant Act 1985, Schedule 11 to the Commonhold and Leasehold Reform Act 2002 or rule 13 of the tribunal rules. Successful parties do not get an order for costs in their favour as a matter of course.
7. The relevant part of Rule 13 reads:

Orders for costs, reimbursement of fees and interest on costs

13.—(1) Subject to paragraph (1ZA), 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;

8. Where the tribunal exercise any power conferred by the 2013 Rules it is required by rule 3 (3) to give effect to the overriding objective which reads

3. Overriding objective and party's obligation to cooperate with the Tribunal

(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.

(2) Dealing with a case fairly and justly includes –

(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal.

(b) avoiding unnecessary formality and seeking flexibility in the proceedings;

(c) ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;

(d) using any special expertise of the Tribunal effectively; and

(e) avoiding delay, so far as compatible with the proper consideration of the issues.

(3) The Tribunal must seek to give effect to the overriding objective when it –

(a) exercises any power under these Rules; or

(b) interprets any rule or practice direction.

(4) *Parties must –*

(a) help the Tribunal to further the overriding objective; and

(b) cooperate with the Tribunal generally.

9. The leading case on the award of costs is Willow Court Management Company (1985) Limited and Mrs Ratna Alexander LRX/90/2015 (Willow Court).

10. The Upper Tribunal considered what is meant by “unreasonable conduct” and at paragraph 24 said

...“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. The test may be expressed in different ways. Would a reasonable person in the position of the party have conducted themselves in the manner complained of? Or Sir Thomas Bingham’s “acid test”: is there a reasonable explanation for the conduct complained of?

11. At paragraph 25

... but for a lay person to be unfamiliar with the substantive law or with tribunal procedure, to fail properly to appreciate the strengths or weaknesses of their own or their opponent’s case, to lack skill in presentation, or to perform poorly in the tribunal room, should not be treated as unreasonable.

12. At Paragraph 26

26. We also consider that tribunals ought not to be over-zealous in detecting unreasonable conduct after the event and should not lose sight of their own powers and responsibilities in the preparatory stages of proceedings. As the three appeals illustrate, these cases are often fraught and emotional; typically those who find themselves before the FTT are inexperienced in formal dispute resolution; professional assistance is often available only at disproportionate expense....

13. Paragraph 27

The element of discretion in rule 13(1)(b)

27. When considering the rule 13(1)(b) power attention should first focus on the permissive and conditional language in which it is framed: “the Tribunal may make an order in respect of costs only ... if a person has acted unreasonably....” We make two obvious points: first, that unreasonable conduct is an essential pre-condition of the power to order costs under the rule; secondly, once the existence of the power has been established its exercise is a matter for the discretion of the tribunal. With these points in mind we suggest that a systematic or sequential approach to applications made under the rule should be adopted.

14. Paragraph 32

32. In the context of rule 13(1)(b) we consider that the fact that a party acts without legal advice is relevant at the first stage of the inquiry. When considering objectively whether a party has acted reasonably or not, the question is whether a reasonable person in the circumstances in which the party in question found themselves would have acted in the way in which that party acted. In making that assessment it would be wrong, we consider, to assume a greater degree of legal knowledge or familiarity with the procedures of the tribunal and the conduct of proceedings before it, than is in fact possessed by the party whose conduct is under consideration. The behaviour of an unrepresented party with no legal knowledge should be judged by the standards of a reasonable person who does not have legal advice. The crucial question is always whether, in all the circumstances of the case, the party has acted unreasonably in the conduct of the proceedings.

15. Paragraph 34

*34. At paragraph 26 of *Cancino*¹ the tribunal considered the balance which is required to be struck when considering application for costs against unrepresented parties:*

...“First, the conduct of litigants in person cannot normally be evaluated by reference to the standards of qualified lawyers. Thus the same standard of reasonableness cannot generally be applied. On the other hand the status of unrepresented litigants cannot be permitted to operate as a carte blanche to misuse the process of the tribunal. The appropriate balance must be struck in every case. In conducting this exercise, tribunals will be alert to the distinction between pursuing a doomed appeal in the teeth of legal advice and doing likewise without the benefit thereof... Stated succinctly, every unrepresented litigate must, on the one hand be permitted appropriate latitude. On the other hand, no unrepresented litigate can be permitted to misuse the process

¹ *Cancino v Secretary of State for the Home Department* [2015] UKFTT 00059 (IAC)

of the tribunal. The overarching principle of facts sensitivity looms large once again.”

We agree with these observations. 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.

The Applicants case

16. In support of a claim for costs the Applicant states he did not initiate any disagreement and the proceedings were necessitated entirely by the Respondents conduct in pursuing unrecoverable service charges, the failure to ring fence service charge funds and pursuing incorrect demands and repeated procedural irregularities.
17. But for the Respondents unlawful demands and statutory breaches no dispute would have arisen an application to the tribunal would have been necessary. The application was made solely because of the Respondent’s actions.
18. The alleged unreasonable conduct included
 - a) pursuing charges that were plainly unrecoverable, mischaracterised, and later found to be so;
 - b) making inaccurate statements about the Applicant’s payment history and incorrectly attributing a Companies House penalty to him;
 - c) issuing repeated payment demands during ongoing proceedings;
 - d) failing to engage with pre-action correspondence from solicitors;
 - e) attempting to expand the scope of the dispute into matters outside the Tribunal’s jurisdiction;
 - f) making and then withdrawing an oral hearing request, causing unnecessary procedural work;
 - g) providing contradictory statements, including an admission (email of 2 October 2025) that they had halted the Section 20 quotation process despite telling the Tribunal repair delays for the building were the Applicant’s fault.
19. The Applicant also sent in a 64 page response to the Respondents submission despite not being directed to do so. This repeated the points made above.

The Respondent’s Case

20. The Respondent accepts the tribunal’s decision of 7 November 2025 that service charges were not payable.

21. The Respondent is willing to pay the Applicants solicitors fees of £1214 as a reasonable legal costs.
22. The Respondents strongly contest the claim for £4050 as litigants in person time as
 - a) the hours claimed are excessive and disproportionate to the nature and complexity of the dispute,
 - b) the Respondents conduct did not meet the threshold for unreasonable conduct established in Willow Court
 - c) the claimant lacks proportionality as the amount claimed exceeded the amount in dispute by approximately 7 times
 - d) there is no evidence or breakdown justifying 135 hours of work
 - e) the standard rate for litigants in person is £19 per hour not £30 per hour has claimed unless financial losses proved.
23. The Respondent invites the tribunal to award the solicitors fees of £1214 and to refuse or substantially reduce the litigant in person claim as excessive, unsubstantiated and disproportionate.

Discussion

24. A prerequisite for making an order under rule 13 (1) (b) is that a person must have acted unreasonably in bringing, defending or conducting proceedings...The burden is on the Applicant to establish unreasonable conduct.
25. In the Applicant's case, points a, b, c and d listed in paragraph 19 above all relate to the subject matter of the claim and not to the conduct of the proceedings. They do not therefore fall under the scope of the rule.
26. Under point e, the bundle in the 1st stage of the proceedings ran to 667 pages most of which was produced by the Applicant but while it was clear there were other issues between the parties these were not considered by the tribunal as they did not fall within the scope of the application or the directions. For reasons which are unclear it included the superseded initial submission of the Respondent.
27. Point f relates to a request which was subsequently withdrawn for an oral hearing. The Applicant sought leave to give evidence from abroad which was discontinued for reasons of cost and the Respondent withdrew the request for an oral hearing. The tribunal does not consider it unreasonable conduct for a party to request something to which they are entitled even if that request is subsequently withdrawn, particularly in the circumstances where one of the parties was resident abroad and was therefore saved time and cost.

28. Point g alleges unspecified contradictory statements and a reference to section 20 proceedings all introduced by the Respondent. However the Applicant's statement of case in the initial bundle refers to ongoing section 20 works. The tribunal does not therefore consider it unreasonable for the Respondent to engage with this issue. The allegations and counter allegations were not before the tribunal which made no decision on them. The tribunal does not therefore consider the claim of unreasonable conduct is made out.

Conclusion

29. A finding of unreasonable conduct is necessary before considering what, if any, costs should be awarded. In this case the tribunal is not persuaded there has been any unreasonable conduct by the Respondent particularly bearing in mind that both parties are unrepresented. The issue of quantum does not therefore fall to be decided. The case concerned 3 flats in a converted residential property and 3 items of claimed the service charge totalling just over £700. A bundle of 667 pages was disproportionate to the issues.

30. The tribunal does not make an order under rule 13 of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Name: A Harris

Date: 8 December 2025

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).