FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AG/LSC/2024/0728**
Property	**:**	**209 Webheath, Netherwood Street, Kilburn, London NW6 2JU**
Applicant	**:**	**Richard Oshibote**
Respondent	**:**	**London Borough of Camden**
Representative	**:**	**Judge and Priestley LLP**
Type of Application	**:**	**Payability of service charges**
Tribunal	**:**	**Judge Nicol** **Mr DI Jagger MRICS**
Date of Decision	**:**	**29th January 2026**

COSTS DECISION

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1. **The Applicant shall pay the Respondent their costs of this matter, summarily assessed in the sum of £6,500, inclusive of VAT and disbursements.**

2. **The application for a wasted costs order against the Applicant's solicitors is dismissed.**

Reasons

1. The Applicant is a joint lessee of the subject property. He applied for a determination under section 27A of the Landlord and Tenant Act 1985 as to the reasonableness and payability of service charges for 2022-2025. However, when he failed to attend the hearing of his case on 31st October 2025, the Tribunal struck it out. He was granted permission to apply to restore his case and he did so, but that application was rejected on 12th December 2025. The Tribunal refused permission to appeal to the Upper

Tribunal and it is understood that a further application for permission to appeal is pending with the Upper Tribunal (ref: LC-2026-000030).

2. In the meantime, the Respondent applied on 11th December 2025 for an order for costs under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013. The Applicant was given an opportunity to respond but did not do so. Therefore, the Tribunal has proceeded to determine the application on the available papers.

Relevant law

3. The relevant parts of rule 13 state:

> (1) … the Tribunal may make an order in respect of costs only—
>
> (a) …
> (b) if a person has acted unreasonably in bringing, defending or conducting proceedings; …

4. The Upper Tribunal considered rule 13(1)(b) in *Willow Court Management Co (1985) Ltd v Alexander* [2016] UKUT 0290 (LC). They quoted with approval the following definition from *Ridehalgh v Horsefield* [1994] Ch 205 given by Sir Thomas Bingham MR at 232E-G:

> "Unreasonable" … means what it has been understood to mean in this context for at least half a century. The expression aptly describes conduct which is vexatious, designed to harass the other side rather than advance the resolution of the case, and it makes no difference that the conduct is the product of excessive zeal and not improper motive. But conduct cannot be described as unreasonable simply because it leads in the event to an unsuccessful result or because other more cautious legal representatives would have acted differently. The acid test is whether the conduct permits of a reasonable explanation. If so, the course adopted may be regarded as optimistic and as reflecting on a practitioner's judgment, but it is not unreasonable.

5. The Upper Tribunal in *Willow Court* went on to say:

> 24. … 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. We see no reason to depart from the guidance given in *Ridehalgh* at 232E, despite the slightly different context. “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?

> 26. We … 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. …

6. The Court of Appeal considered the issue further in *Lea v GP Ilfracombe Management Co Ltd* [2024] EWCA Civ 1241; [2025] 1 WLR 371. They held that,

   (a) Although a party would have acted unreasonably if their conduct had been vexatious or designed to harass the other party rather than to advance the resolution of the case, there was no requirement that conduct had to be vexatious or oppressive in order for the party to have acted unreasonably, which would place an impermissible gloss on the statutory language and be potentially much too restrictive.
   (b) Since deciding whether or not a person had acted unreasonably within rule 13(1)(b) was a fact-specific exercise, it was not appropriate for the court to give more general guidance as to what did or did not constitute acting unreasonably but, subject to that, a good practical rule was to ask:
      (i) whether a reasonable person acting reasonably would have acted in the way in issue; and
      (ii) whether there was a reasonable explanation for the conduct in issue.

The Applicant's actions

7. The Respondent pointed to the following matters:

   (a) The Applicant did not comply with the Tribunal's directions. The original directions were scrapped because neither party complied. Under the revised directions, the Applicant was supposed to provide his case in a schedule on 14th July 2025 but did not do so until 23rd July 2025. He then did not submit a Reply to the Respondent's case (albeit that was not mandatory). He was supposed to apply for permission to restore his case by 28th November 2025 but did not do so until 8th December 2025.
   (b) As described in the Tribunal's decision of 31st October 2025, the Applicant failed to attend the hearing. The Respondent incurred the full expense of preparing for the hearing, including briefing counsel to represent them and bringing their witness, Mr Insley Ettienne.
   (c) Further, the Applicant failed to communicate with the Tribunal or the Respondent at any time after receiving the Respondent's case bundle. His given excuse of flu, if accepted, might have explained why he did not attend the hearing but not why he did not communicate at all, even to say he was ill.

8.

Name: Judge Nicol **Date:** 29th January 2026