FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case reference	**:**	**LON/00BK/LAM/2025/0034**
Property	**:**	**Peterson House, 25 Gilbert Street, London, W1K 5HX**
Applicant	**:**	**Charles Munton**
Representative	**:**	**N/A**
Respondent	**:**	**Great Peterson Limited**
Representative	**:**	**Hamlins LLP**
Type of application	**:**	**Costs under Rule 13(1)(b) Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules**
Tribunal members	**:**	**Judge M Himsworth** **Judge H Carr**
Venue	**:**	**10 Alfred Place, London WC1E 7LR**
Date of decision	**:**	**8 June 2026**

DECISION

Introduction

1. The Applicant made an application to the tribunal for the appointment of a manager under section 24 Landlord and Tenant Act 1987 (the '**1987 Act**'). That application was struck out by the tribunal.

2. The Respondent now applies to recover legal costs from the Applicant, who it says behaved unreasonably in making the application and in aspects of his conduct before and since.

Decision of the tribunal

3. The Tribunal makes <u>no order as to costs</u>.

Background and the s24 Manager Application Proceedings

4. Peterson House, 25 Gilbert Street, London, W1K 5HX (the '**Property**') once provided office accommodation, and has since been converted such that it now comprises 18 residential dwelling units. The Applicant is the leaseholder of Flat A at the Property.

5. According to the application he submitted, the Applicant was concerned with how the Property was being operated particularly a) other of its flats than his were being offered as short-term lets, and b) ground floor windows in those flats could be left fully opened and were a security risk. The Applicant considered that the Property's managing agent Avery Real Estate Limited was aware of those problems and was either complicit in, or failed to prevent, them. For that reason, the Applicant contended, another manager of the building should be appointed in their stead.

6. A brief chronology follows:

   (i) 21 May 2025 - Enforcement Notices issued by the local authority in respect of most if not all flats at the Property, other than Flat A. The notices indicated that they were issued under the Town and Country Planning Act 1990, on the basis that it appeared there had been a breach of planning control by way of the flats' use as 'temporary sleeping accommodation'

   (ii) 6 October 2025 – Applicant purported to serve formal notice under Section 22 of the 1987 Act by email

   (iii) 27 October 2025 - application for the appointment of a manager under Section 24 1987 Act issued by the Applicant, (the '**Manager Application**')

(iv) 28 November 2025 – Respondent's representative filed a notice of acting

(v) 5 December 2025 – tribunal issued formal notice that it considered it had no jurisdiction because of the absence from the Section 22 notice of three pieces of required information. The tribunal invited submissions from the Parties, and the tribunal's accompanying letter suggested the Applicant might consider withdrawal and reissue of the s22 notice. The defects identified were the absence of:

(a) The tenant's address
(b) The legal ground(s) under s24(2) of the 1987 Act under which the order was sought
(c) A reasonable period for steps to permit remedial action, and additionally:

(d) an error as to the section of the 1987 Act under which the Applicant indicated he intended to proceed

(vi) 15 December 2025 - Applicant responded to the tribunal's 5 December 2025 notice

(vii) 19 December 2025 – Respondent responded to the tribunal's 5 December 2025 notice

(viii) 29 January 2026 – order striking out the Manager Application under Rule 9(2) of the Rules (as defined below).

<u>The Costs Proceedings</u>

7. By letter dated 25 February 2026 and an accompanying application, the Respondent applied - the '**Costs Application**' - for an order under Rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (together the '**Rules**', and each a '**Rule**').

8. Directions in respect of the resolution of the Costs Application were issued by the tribunal on 2 March 2026. The directions indicated that the Costs Application would be determined without a hearing on the basis of written submissions from the parties unless a request was made to the tribunal for a hearing. No such request having been made, the matter has been determined on the basis of the documents provided.

9. The Directions also required the Respondent to submit an agreed hearing bundle, and in coming to this determination the tribunal has

considered everything within the 116-page bundle which was filed on 19 May 2026 (‘**Costs Bundle**’), together with a bundle filed with the Costs Application. Numbers in square brackets in this decision are to the pagination marked within the Costs Bundle.

<u>Rule 13(1)b: The relevant law, rules, and authorities.</u>

10. The tribunal may make an order under Rule 13(1)b of the 2013 Rules where it is satisfied that a party has acted unreasonably in bringing or conducting proceedings.

11. The Act of Parliament which gives the tribunal the power to make such an order is the Tribunal, Courts and Enforcement Act 2007:

> *Section 29 Costs or expenses*
>
> (1) The costs of and incidental to—
>
> (a) all proceedings in the First-tier Tribunal, and
> (b) all proceedings in the Upper Tribunal, shall be in the discretion of the Tribunal in which the proceedings take place.
>
> (2) The relevant Tribunal shall have full power to determine by whom and to what extent the costs are to be paid.
>
> (3) Subsections (1) and (2) have effect subject to Tribunal Procedure Rules…

12. The relevant provision under the Rules is Rule 13(1):

> 13. (1) … the Tribunal may make an order in respect of costs only—
> …
> (b) if a person has acted unreasonably in bringing, defending or conducting proceedings;

13. The Respondent’s citation of the Rules on page 4 of its Costs Application is to a superseded edition, taking no account of amendments made to the Rules over the last three years. There is however no doubt that the tribunal has jurisdiction to determine a Rule 13(1) application in this case.

14. In the case of *Ridehalgh v Horsefield & Anr* [1994] Ch 205, the Court of Appeal was concerned with a different kind of costs order, which can be made against qualified lawyers. The case is relevant because one the requirements for such an order, just as in the Costs Application, is that the conduct complained of must have been ‘unreasonable’. Sir Thomas Bingham MR (as he then was) said at 232 E-G:

"'Unreasonable" also 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."

15. In *Willow Court Management Co v Alexander* [2016] UK UT 290 (LC) ('*Willow Court*') the Upper Tribunal held that the determination of an application for costs under Rule 13 should be approached at the conclusion of the case and in three stages (at para 28):

"*if there is no reasonable explanation for the conduct complained of the behaviour will properly be adjudged to be unreasonable, and the threshold for the making of an order will have been crossed. A discretionary power is then engaged and the decision maker moves to a second stage of the inquiry. At that stage it is essential for the tribunal to consider whether, in the light of the unreasonable conduct it has found to have been demonstrated, it ought to make an order for costs or not; it is only if it decides that it should make an order that a third stage is reached when the question is what the terms of the order should be".*

16. The Upper Tribunal in *Willow Court* gave guidance to tribunals as to the test they should apply when determining unreasonable conduct:

"*25. …For a professional advocate to be unprepared may be unreasonable (or worse) 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.*

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. It is the responsibility of tribunals to ensure that proceedings are dealt with fairly and justly, which requires that they be dealt with in ways proportionate to the importance of the case (which will critically include the sums involved) and the resources of the parties. Rule 3(4) *entitles the FTT to require that the parties cooperate with the tribunal generally and help it to further that overriding objective (which will almost invariably require that they cooperate with each other in preparing the case for hearing). Tribunals should therefore use their case management powers actively to encourage preparedness and cooperation, and to discourage obstruction, pettiness and gamesmanship.'*

17. The Upper Tribunal in *Willow Court* considered with approval a passage from another legal case called *Cancino v Secretary of State for the Home Department Department* [2015] UKFTT 00059 (IAC) and quoted from its paragraph 26:

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

18. The Upper Tribunal in *Willow Court* said of the preceding passage:

"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."

19. In *Kathryn Anne Lea (and ors) v GP Ilfracombe Management Company Limited* [2024] EWCA Civ 1241 the Court of Appeal held that the acid test is whether the conduct in question can be reasonably explained:

"[15] A good practical rule for the tribunal to consider is; would a reasonable person acting reasonably have acted in this way? Is there a reasonable explanation for the conduct in issue?"

<u>The submissions of the Respondent</u>

The claim

20. The Respondent submits that the three stages of the *Willow Court* test are made out in this case, and originally sought, on the indemnity basis, £17,235.00 in costs set out in a schedule signed on 20 March 2026 by the Respondent's representative (the '**Costs Schedule**'), which can be broken down thus:

(i) £11,991.50 – legal work in connection with the Management Application

(ii) £5,243.50 – legal work relating to the Costs Application

21. In his response [72] to the Costs Application, the Appellant pointed to a number of arithmetical errors and other disparities in the Costs Schedule, and made submissions as to the work set out therein and its cost more generally which, in the circumstances, we need not address.

22. In its statement in reply [101], the Respondent accepted, albeit without explanation or apology [110], that transcription and typographical errors in the Costs Schedule's preparation had remained undetected in the signed schedule which, once corrected, led to the decrease in the total sum sought for all work to £15,836.50.

23. Having considered the Appellant's representations, the Respondent also no longer pursued the 30% or so of its original claim which related to work preparing the Costs Application. Its total claim is now for £10,593.00: just under 40% less than originally claimed.

24. The tribunal notes that no mention is made in the Costs Schedule, or in the statement in response, of value added tax, presumably because the Respondent is either not liable to pay VAT, or can recover it.

Submissions on Unreasonableness

25. The Respondent submits that the Applicant's conduct was unreasonable within the meaning of Rule 13.

26. Summarising the submissions the Respondent made in the Costs Application and in its statement in reply [101], it alleges that the Applicant acted unreasonably because he:

(i) Issued the s22 notice, which was defective,

(ii) Issued the Management Application, which as a result of the defects in the s22 notice was bound to (and did) fail

(iii) Failed to adequately address the tribunal's notice of intention to strike out

(iv) Behaved unreasonably after the application was struck out, continuing to correspond with the tribunal

27. The Respondent asserts that the issuance of the notice and Management Application were done vexatiously and in a manner designed to harass.

28. The Respondent makes further points as to the inevitable eventual failure of the Management Application on grounds other than those on which it was in fact struck out. In the light of the stage of proceedings which were reached, and of the material available to it, the tribunal is unable to reach any conclusion as to those.

Reasons for the tribunal's decision

29. The tribunal determines that the Applicant's conduct has not been demonstrated to have been unreasonable.

30. The Rule 13 costs powers are reserved for the clearest of cases, and the burden is on the Respondent to establish that the conduct of the Applicant was unreasonable. The Applicant must be given appropriate latitude, but cannot be permitted to misuse the tribunal's process. The standard against which the Applicant's behaviour must be judged is that of a reasonable person who is not a lawyer and who has not received legal advice.

31. The tribunal has taken into account all of the evidence and submissions made available to it and concudes as follows:

(i) As the Respondent agrees in its statement in reply [para 10, p104], the Applicant was the victim of an earlier burglary and had concerns about security at the Property

(ii) In the light of the Enforcement Notices [example at 94]; photographic evidence [82]; and communications between the Applicant and the Managing Agent [83], we do not consider it unreasonable (in the Rule 13 sense) for someone in the Applicant's position to have considered that the Managing Agent was not adequately complying with its obligations and should be replaced. It follows that we do not consider that the bringing of the proceedings was unreasonable

(iii) It is also clear that (as alluded to in para 3(b) of the tribunal's intention to strike out notice of 5 December 2026 [52]) the Applicant did not comprehend the importance of the Section 22 notice complying with precise statutory obligations and, in particular, did not grasp the distinction between the legal 'ground' for appointing a manager on the one hand and the matters which might be relied on to establish that ground on the other. We consider that that distinction is a relatively fine one for an unadvised non-lawyer to appreciate and that the Applicant fell into error in this regard and in respect of the Section 22 notice's compliance generally does not render his conduct unreasonable in the Rule 13 sense

(iv) It is evident from the Applicant's communications of 15 December 2025 [53], 6 January 2026 [56], 20 January 2026 [88], 2 February 2026 [65], and 22 March 2026 [70] that he was focussed on concerns over the Property's management: we do not consider that there is evidence that he was acting vexatiously or so as to harass

(v) Had the Applicant withdrawn the application and the notice and reissued them both the application might ultimately have succeeded or it might ultimately have failed: on the evidence available we cannot and do not make a determination either way. But what can be said is that it would not have been struck out for the reasons it was. Put another way, the failings in the notice which led to the strike out could easily have been remedied but it was not, in our view, unreasonable for the Applicant to have failed to understand what the defects were, why remedy was necessary, or how it might be achieved

(vi) On 15 December 2025 the Applicant made an attempt to remedy at least some of the defects in the notice which the tribunal had pointed out to him: he appears to us to have been seeking to engage meaningfully with legal requirement and with the tribunal

(vii) In the light of the chronology, and of all of the above, we do not consider that the Applicant behaved unreasonably in bringing or conducting the Manager Application, including beyond the 5 December 2025 notice of intended strike out, or in subsequent correspondence

32. Had we determined that the Applicant's behaviour had been unreasonable, such that the first *Willow Court* step was passed, we would have had serious doubts as to both of the second and third steps.

33. It is to be borne in mind that all of the costs claimed were said to have been caused by what the Respondent contends was a '*fundamentally defective*' s22 notice followed by an '*inherently defective*' Management Application which had '*no reasonable prospects of success'*. We make no determination on this issue, but expending five-figure sums on legal costs in such a short period of time to meet a legal action the Respondent considered doomed to failure from the outset does not appear to us to be in keeping with the Rule 4(a) obligation on parties to help the tribunal deal with cases fairly and justly and at proportionate cost as it must under Rule 3(2)(a). We note too that the tribunal brought the failings in the s22 notice to the parties' attention and that the Respondent's Representative only put themselves on record four clear days before that.

34. It is also troubling that over 30% of the costs originally claimed related to the making of the Costs Application rather than work dealing with the Manager Application, and that errors in the drafting of the Costs Schedule were not detected prior to its signing and submission.

35. In any event, the Costs Application falls at the first hurdle: the tribunal is not satisfied that the conduct of the Applicant in bringing and/or conducting the Manager Application was unreasonable, and so the application fails as the Rule 13(1)(b) test is not met.

Name: Judge M Himsworth **Date:** 8 June 2026

<u>Rights of appeal</u>

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).