



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

Case Reference : **LON/00BG/LSC/2025/1138**

Property : **75 Brick Lane, London E1 6QL**

Applicant : **Mr Andrzej Gruzdz**

Representative : **In person**

Respondents : **Betterkey Limited**

Representative : **Nicholas & Co Solicitors
(Ref: BS/B01532.005)**

Type of Application : **Costs - rule 13(1)(b) of the Tribunal
Procedure (First-tier Tribunal)
(Property Chamber) Rules 2013**

Tribunal member : **Judge J P Donegan**

**Dates of paper
determination** : **15 June 2026**

Date of decision : **15 June 2026**

DECISION

Decision of the Tribunal

The respondent's application for a costs order under Rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the 2013 Rules') is refused.

The background

1. The applicant is a tenant of 75 Brick Lane, London E1 6QL ('the Property'), which is a residential flat with several ensuite rooms. The respondent is his landlord.
2. The applicant holds the Property under a lease dated 22 May 2020, which is for a term of 15 years from 01 May 2020. As far as I can see, the lease does not include any service charge provisions.
3. By a Tribunal application dated 20 October 2025, the applicant sought a determination of service charges for the Property for 2024 and 2025, pursuant to section 27A of the Landlord and Tenant Act 1985 ('the s.27A Application'). The application form explained there were separate proceedings between the parties in the Insolvency and Companies Court, regarding a disputed statutory demand. It appears that dispute relates to alleged rent arrears for the Property with a potential counterclaim for the cost of repairs.
4. I reviewed the s.27A Application on 21 January 2026 and listed the application for a case management hearing ('CMH') on 03 February 2026, as the grounds of the application were unclear.
5. The applicant provided a clarification note dated 23 January that explained he was seeking a determination regarding structural, exterior and communal repair works at the Property that he had arranged and paid for. He provided further clarification in a document dated 02 February 2026 stating he had not received any service charge demands from the respondent and was seeking a determination of liability for the repairs.
6. I explored these issues at the start of the CMH and counsel for the respondent invited me to strike out the s.27A Application pursuant to rule 9(2) of the 2013 Rules on the basis the Tribunal had no jurisdiction as no service charges had been demanded from the applicant. Following a short adjournment, the applicant stated he wished to withdraw the s.27A Application and I consented to the withdrawal. This was confirmed in a formal consent to withdrawal dated 04 February 2026.
7. By a letter to the Tribunal dated 03 March 2026, the respondent sought a costs order against the respondent under rule 13(1)(b) of the 2013 Rules ('the Costs Application').

8. I gave directions on the Costs Application on 17 March. Paragraph 2 provided for a paper determination unless either party requested an oral hearing by 31 March. There was no such request, and the paper determination took place on 15 June 2026.
9. Paragraph 3 of the directions required the respondent to serve a statement of case by 07 April 2026, to include:

“(a) The reasons why it is said that the applicant has acted unreasonably in bringing, defending or conducting proceedings and why this behaviour is sufficient to invoke the Rule, dealing with the issues identified in the Upper Tribunal decision in Willow Court Management Company (1985) Ltd v Mrs Ratna Alexander [2016] UKUT (LC), with particular reference to the three stages that the Tribunal will need to go through, before making an order under Rule 13;”
10. Paragraph 7 required the respondent to file a determination bundle by 02 June 2026. On checking the bundle, which is runs to 25 pages, I discovered there was no statement of case from the respondent. The case officer queried this with the respondent’s solicitors who responded on 09 June 2026, stating their letter of 03 March 2026 was intended to be the statement of case.
11. When deciding the Costs Application, I considered the various documents in the determination bundle, as well as the documents filed on the s.27A Application.

The law

12. The relevant legal provisions are set out in the appendix to this decision.
13. The respondent seeks a costs order under rule 13(1)(b), based on the applicant’s conduct of the s.27A Application.
14. Rule 13(1)(b) is engaged where a party has acted “...unreasonably in bringing, defending or conducting proceedings...”. The Tribunal’s power to award costs is derived from section 29(1) of the Tribunals, Courts and Enforcement Act 2007, which provides:

“(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.”

It follows that any rule 13(1)(b) order must be limited to the costs of and incidental to the s.27A Application.
15. In ***Willow Court Management Co (1985) Ltd v Alexander [2016] UKUT 290 (LC)***, the Upper Tribunal (‘UT’) outlined a three-

stage test for deciding rule 13 applications. The Tribunal must first decide if there has been unreasonable conduct. If this is made out, it must then decide whether to exercise its discretion and make an order for costs in the light of that conduct. The third and final stage is to decide the terms of the order. The second and third stages both involve the exercise of judicial discretion, having regard to all relevant circumstances and there need not be a causal connection between the unreasonable conduct and the costs incurred. Given the requirements of the three stages, rule 13 applications are fact sensitive.

16. At paragraph 20 of **Willow Court**, the UT decided the guidance on wasted costs in **Ridehalgh v Horsefield [1994] Ch**, was applicable to rule 13(1) applications. In **Ridehalgh**, Sir Thomas Bingham MR considered the expressions “*improper, unreasonable or negligent*” saying (at page 232D-F):

“‘Improper’ means what it has been understood to mean in this context for at least half a century. The adjective covers, but is not confined to, conduct which would ordinarily be held to justify disbarment, striking off, suspension from practice or other serious professional penalties. It covers any significant breach of a substantial duty imposed by a relevant code of professional conduct. But it is not in our judgment limited to that. Conduct that would be regarded as improper according to the consensus of professional (including judicial) opinion can be fairly stigmatised as such whether or not it violates the letter of a professional code.

“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.”

17. At paragraph 24 of **Willow Court**, the UT said “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 in Ridehalgh v Horsefield 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 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?”

18. At paragraphs 26 and 28, the UT went on to say:

“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.

...

28. At the first stage the question is whether a person has acted unreasonably. A decision that the conduct of a party has been unreasonable does not involve an exercise of discretion but rather the application of an objective standard of conduct to the facts of the case. If there is no reasonable explanation for the conduct complained of, the behaviour will be properly 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 the second stage of the inquiry. At that second 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.”

19. At paragraph 43 the UT emphasised that rule 13(1)(b) applications *“...should not be regarded as routine, should not be abused to discourage access to the tribunal and should not be allowed to become major disputes in their own right.”*

The parties’ submissions on the Costs Application

20. The respondent relies on their solicitors’ letter of 03 March 2026, a costs statement and various supporting documents. The letter is only one-page long and gives little information. It states there *“is no service charge under the lease nor a right of set-off”* and contends the s.27A Application *“was incorrect, made without merit and was bound to fail.”* It does not address the three-stage test in **Willow Court**.

21. The respondent seeks total costs of £3,908.80 (including VAT). It relies on a costs statement dated 03 February 2026, produced for the CMH. The total sum claimed in this statement is £3,128.10 (including VAT and counsel's fee for the CMH). In their letter of 03 March, the respondent's solicitors state they have incurred costs of £780 (including VAT) since the statement of costs but there is no breakdown of this sum. A substantial part must have been incurred after the withdrawal of the s.27A Application and cannot be costs of and incidental to that application.
22. The applicant relies on a response dated 28 April 2026. Again, this is only one-page long. He states he does "*not intend to contest the application in detail*" but asks the Tribunal to "*carefully consider whether the threshold for unreasonable conduct has been met.*" He brought the s.27A Application in good faith and "*it was not made frivolously or with any intention to cause unnecessary cost of inconvenience.*" If a rule 13 order is made, he asks that the amount "*is reasonable, proportionate and supported by appropriate evidence.*"
23. There was no reply to applicant's response.

The Tribunal's decision

24. The application for a Rule 13(1)(b) costs order is refused.

Reasons for the Tribunal's decision

25. The respondent did not comply with paragraph 3(a) of the directions. It relies on its solicitors' letter of 03 March, which does not explain why the applicant's behaviour was sufficient to invoke rule 13 nor does it refer to the three-stage test in ***Willow Court***. In fact, it does not mention ***Willow Court*** at all. Notwithstanding this omission, I followed the UT's guidance.
26. The threshold for making a Rule 13(1)(b) costs order is a high one. As stated at paragraph 24 of ***Willow Court*** "*...the standard of behaviour expected of parties in tribunal proceedings ought not to be set at an unrealistic level.*"
27. I started by considering whether the applicant had acted unreasonably in conducting the s.27A Proceedings. When doing so, I only considered the period from 20 October 2025, being the date of the application, until the conclusion of the CMH on 03 March 2026.
28. The respondent's only complaint is that the applicant pursued a hopeless case that was bound to fail. This is factually correct in that no service charges had been demanded from the applicant so there were no charges for the Tribunal to determine. However, there is a reasonable explanation for this. There is a dispute regarding liability for repairs at the Property and the applicant, who is a litigant in person,

mistakenly believed the Tribunal could decide this dispute. The Tribunal often deals with repair issues on section 27A applications, but this is only possible where the cost of the repairs has been demanded as a service charge. This is not the case here and when this was pointed out, at the CMH, the applicant promptly withdrew his application. There is no suggestion the respondent raised this with him before the CMH.

29. Given the applicant did not have the benefit of legal advice, he was unaware the s.27A Application was misconceived until the CMH. On discovering this he acted entirely reasonably in withdrawing the application.
30. The respondent has not established any unreasonable conduct on the part of applicant. It has not satisfied the first stage of the ***Willow Court*** guidance, and it is unnecessary for the Tribunal to go on and consider the second and third stages. The Costs Application refused.

Name: Judge J P Donegan

Date: 15 June 2026

ANNEX - RIGHTS OF APPEAL

1. 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.
2. 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.
3. 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.
4. 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.

Appendix of relevant legislation
The Tribunals, 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.
- (4) In any proceedings mentioned in subsection (1), the relevant Tribunal may—
 - (a) disallow, or
 - (b) (as the case may be) order the legal or other representative concerned to meet,the whole of any wasted costs or such part of them as may be determined in accordance with Tribunal Procedure Rules.
- (5) In subsection (4) “wasted costs” means any costs incurred by a party—
 - (a) as a result of any improper, unreasonable or negligent act or omission on the part of any legal or other representative or any employee of such a representative, or
 - (b) which, in the light of any such act or omission occurring after they were incurred, the relevant Tribunal considers it is unreasonable to expect that party to pay.
- (6) In this section “legal or other representative”, in relation to a party to proceedings, means any person exercising a right of audience or right to conduct the proceedings on his behalf.
- (7) In the application of this section in relation to Scotland, any reference in this section to costs is to be read as a reference to expenses.

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Orders for costs, reimbursement of fees and interest on costs

- 13.-** (1) 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 in –
 - (i) an agricultural and land drainage case,
 - (ii) a residential property case, or
 - (iii) a leasehold case; or
 - (c) in a land registration case.
- (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.

...

- (7) The amount of costs to be paid under an order under this rule may be determined by –
 - (a) summary assessment by the Tribunal;
 - (b) agreement of a specified sum by the paying person and the person entitled to receive the costs (the “receiving person”);
 - (c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an application to a county court; and such assessment to be on the standard basis or, if specified in the costs order, on the indemnity basis.
- (8) The Civil Procedure Rules 1998(a), section 74 (interest on judgment debts, etc) of the County Courts Act 1984(b) and the County Court (Interest on Judgment Debts) Order 1991(c) shall apply, with necessary modifications, to a detailed assessment carried out under paragraph 7(c) as if the proceedings in the Tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply. The Tribunal may order an amount to be paid on account before the costs or expenses are assessed.