



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

Case Reference : LON/00BJ/OLR/2014/0771

Property : 85 Balvernie Grove London SW18
5RQ

Applicant : John Paul Smith and Christine
Margaret Battershill

Representative : Solicitors First LLP

Respondent : Chung Shin Yung Chung; Kin
Chong and Barbara Chung Kin
Chong

Representative : Capulet Solicitors Line House 140
the Broadway Tolworth Surrey KT6
7HT

Type of Application : Determination of application in
connection with costs

Tribunal Members : Dr Helen Carr

**Date and venue of
determination** : 8th July 2014
10 Alfred Place, London WC1E 7LR

Date of Decision : 8th August 2014

DECISION

Decisions of the tribunal

- (1) The tribunal determines to award costs against the Respondents limited to £1000.
- (2) The tribunal makes the determinations as set out under the various headings in this decision.

The background

1. In the course of an application pursuant to section 48 of the Leasehold Reform, Housing & Urban Development Act 1993 (the Act) the tribunal determined, by way of a preliminary hearing, an application by the Respondent, that the application was out of time and that therefore there had been a deemed withdrawal of the section 42 notice served on the freeholder.
2. The tribunal determined that the application was made in time and therefore that it has jurisdiction to determine the substantive application.
3. In its submissions to the tribunal Solicitors First LLP on behalf of the applicants asked the tribunal to make a finding that the Respondents have acted unreasonably in pursuing a point without foundation in relation to the 'deemed withdrawal' even after the Tribunal indicated the relevant date of the Counter Notice was the date of receipt and ask for a costs order.
4. Solicitors First LLP have produced a costs schedule indicating that a total of £2400 of costs have been incurred in connection with this application.
5. The tribunal in its determination indicated to the parties that it was minded to make a determination that costs be awarded against the landlord in this matter. It gave Capulets, for the Respondents, 14 days from the date of the determination to respond to the Applicant's submission in connection with costs, both as to whether costs should be awarded and as to quantum.
6. Capulets have now made submissions to the tribunal on behalf of the Respondents.

The Respondents' submissions

7. Capulets argue that it was entitled to make the application to the tribunal, and at no point did the Respondents behave unreasonably. All directions were complied with. It argues that pursuing its application it behaved reasonably. In its opinion what would be unreasonable would be non compliance with the tribunal's directions.
8. In its initial submission Capulets indicated that it had not had sight of the Applicant's schedule of costs. The tribunal therefore sent the schedule of costs to Capulets, inviting further submissions. Capulets indicated that it had no further submissions.

The determination of the tribunal

9. The tribunal determines that the Respondents pay £1000 costs to the Applicants.

Reasons for the tribunal's determination

10. Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 entitles the tribunal to make a costs order 'if a person has acted unreasonably in bringing, defending or conducting proceedings'. Whilst the tribunal agrees that the Respondents behaved reasonably in the conduct of proceedings, it considers the Respondents behaved unreasonably in bringing the proceedings.
11. As no representations have been made by Capulets in response to the Applicants' schedule of costs, the tribunal determines that the sum £1000 represents a reasonable sum to reimburse costs incurred by the Applicant.

Name: Dr Helen Carr

Date 8th August 2014