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

Case Reference : **MAN/36UD/LBC/2013/0030**

Property : **Flat 1, 21 Harlow Oval, Harrogate HG2 0DS**

Applicants : **Mr Noel Schofield and
Mrs Gillian Schofield**

Representative : **Fursdon Knapper Solicitors**

Respondent : **Mrs Jill Pelter**

Representative : **Langleys Commercial**

Type of Application : **Commonhold & Leasehold Reform Act 2002
Section 168(4)**

Tribunal Members : **Laurence Bennett (Tribunal Judge)
Jonathan Holbrook (Tribunal Judge)**

Date of determination : **27 March 2014**

Date of Decision : **27 March 2014**

DECISION

Application

1. Mr Noel Schofield and Mrs Gillian Schofield apply for a determination under Section 168(4) of the Commonhold and Leasehold Reform Act 2002 (the Act) that a breach of covenant has occurred in the lease dated 8 December 2011 relating to Flat 1, 21 Harlow Oval, Harrogate HG2 0DS (the Property).
2. Mr Noel Schofield and Mrs Gillian Schofield apply for an order for costs against Mrs Jill Pelter under Paragraph 13 of the Tribunal Procedure (First-Tier Tribunal) (Property Chamber) Rules 2013 (the Rules).

Background

3. The application was made on 20 November 2013.
4. The Applicants' solicitors notified the Tribunal on 21 February 2014 that the parties had reached a settlement save for the issue of costs and made application for costs.
5. On 27 February 2014 directions were made in respect of the application for costs which included that the Tribunal considers it appropriate for the matter to be determined by way of a paper determination unless either party requested a hearing. No request was made.
6. Both parties made written submissions. The Respondent requested further details to which the Applicants replied. The Applicants also referred to costs under Paragraph 5 Schedule 11 of the Act. The Respondent also indicated its request for its own costs.
7. The Tribunal convened on 27 March 2014 without the parties to determine the application.

The Rules

8. Paragraph 13(1)(a) of the Rules provides that the Tribunal may make an order in respect of costs under Section 29(4) of the Tribunal Court and Enforcement Act 2007 in respect of wasted costs.
9. Paragraph 13(1)(b) of the Rules provides that the Tribunal may make an order in respect of costs if a person has acted unreasonably in bringing, defending or conducting proceedings.
10. Paragraph 13(2) of the Rules provides that 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.
11. Paragraph 13 of the Rules contains other provisions relevant to costs applications.

Tribunal's conclusions

12. Although the Applicants have referred to an administration charge, neither party has submitted an application for determination of the reasonableness or payability of an administration charge. The Tribunal makes no comment whether this could come within the terms of the relevant Lease.

13. We have carefully considered the chronology of events. The Tribunal's authority to make an order for costs arises under the Rules noted above. We find the Tribunal's authority is limited to the actions of the parties in the proceedings and not prior to that time save that this may be relevant when considering reimbursement by a party of a fee paid by the other party (if any).
14. Following issue of the application the parties made representations in accordance with directions and requested a stay. Notification was given that a settlement was reached. We do not consider either party acted unreasonably or inappropriately within the proceedings.
15. Although the Applicants have referred to Upper Tribunal decision [2013] UKUT0586(LC) we do not consider it is relevant in this application as the Tribunal is not asked to consider either service charge or administration charge.
16. In summary we conclude that neither the Applicants or the Respondent has acted excessively or unreasonably and the application for costs is refused.

Order

17. Mr and Mrs Schofield's application for costs is refused.
18. Mrs Pelter's application for costs is refused.