



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

Case Reference : LON/00AY/OC9/2015/0299

Property : 98 Tudor Close, Brixton Hill,
London SW20 2AD

Applicant : Key Flats Limited

Respondent : Amy Liora Saunders

Type of Application : S60 Costs

Tribunal judge : Angus Andrew

Date of directions : 4 September 2015

DECISION

Decision

Pursuant to rules 9 (3) (a), (b), (d) and (e) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the whole of these cost proceedings are struck out.

Reasons

1. The tribunal received an application for a determination of the landlord's statutory costs incurred in a new lease claim. Although the application form identified Amy Liora Saunders as the applicant the application was clearly made by Key Flats Limited who requested the determination. Standard directions were issued on 10 July 2015. The directions required the applicant to submit document bundles by 24 August 2015 on the basis that the application would be determined without an oral hearing during the week commencing 7 September 2015. The directions concluded with a warning that non-compliance could result in the striking out of the

application in accordance with rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the 2013 rules”).

2. The applicant has since failed to engage with the tribunal and no bundles have been received. The respondent’s position is unknown and there is insufficient evidence to enable me to determine the apparently disputed costs. Consequently the only viable option is to strike out the proceedings under rule 9(3)(a) of the 2013 rules on the grounds that the applicant has failed to comply with the tribunal’s directions.

Name: Angus Andrew

Date: 4 September 2015

Appendix of relevant legislation

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

Striking out a party's case

9.—(1) The proceedings or case, or the appropriate part of them, will automatically be struck out if the applicant has failed to comply with a direction that stated that failure by the applicant to comply with the direction by a stated date would lead to the striking out of the proceedings or that part of them.

(2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal—

- (a) does not have jurisdiction in relation to the proceedings or case or that part of them; and
- (b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.

(3) The Tribunal may strike out the whole or a part of the proceedings or case if—

- (a) the applicant has failed to comply with a direction which stated that failure by the applicant to comply with the direction could lead to the striking out of the proceedings or case or that part of it;
- (b) the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly and justly;
- (c) the proceedings or case are between the same parties and arise out of facts which are similar or substantially the same as those contained in a proceedings or case which has been decided by the Tribunal;
- (d) the Tribunal considers the proceedings or case (or a part of them), or the manner in which they are being conducted, to be frivolous or vexatious or otherwise an abuse of the process of the Tribunal; or
- (e) the Tribunal considers there is no reasonable prospect of the applicant's proceedings or case, or part of it, succeeding.

(4) The Tribunal may not strike out the whole or a part of the proceedings or case under paragraph (2) or paragraph (3)(b) to (e) without first giving the parties an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings or case, or part of them, have been struck out under paragraph (1) or (3)(a), the applicant may apply for the proceedings or case, or part of it, to be reinstated.

(6) An application under paragraph (5) must be made in writing and received by the Tribunal within 28 days after the date on which the Tribunal sent notification of the striking out to that party.

- (7) This rule applies to a respondent as it applies to an applicant except that—
- (a) a reference to the striking out of the proceedings or case or part of them is to be read as a reference to the barring of the respondent from taking further part in the proceedings or part of them; and
 - (b) a reference to an application for the reinstatement of proceedings or case or part of them which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent from taking further part in the proceedings, or part of them.

(8) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Tribunal need not consider any response or other submission made by that respondent, and may summarily determine any or all issues against that respondent.