

10658



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

**Case Reference** : **MAN/00DA/LAM/2014/0007**

**Property** : **Carr Mills, Buslingthorpe Lane, LS7 2DG**

**Applicants** : **Adderstone Group Limited**  
**Represented by** : **JB Leitch Limited**

**Respondent** : **Carr Mills RTM Company Limited**  
**Represented by** : **Walker Morris Solicitors**

**Type of Application** : **Application for Costs under Rule 13 of the  
Tribunal Procedure (First-tier  
Tribunal)(Property Chamber Rules) 2013**

**Tribunal Members** : **Mr Phillip Barber; Ms J Jacobs**

**Date of Decision** : **27 February 2015**

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**DECISION**

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1. This is the Tribunal's decision and reasons in relation to an application for costs arising out of a section 24(1) Landlord and Tenant Act 1987 application. A Decision and Reasons in relation to that application was promulgated on the 11 November 2014.
2. The application for an award of costs was made by the Respondent to those proceedings on the 09 December 2014.
3. The jurisdiction to make an order for costs in the First-tier Tribunal Property Chamber is contained in Rule 13 of the Tribunal Procedure Rules:
  - (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 land and drainage case,
      - (ii) a residential property case, or
      - (iii) a leasehold case; or
      - (c) in a land registration case.
4. That power is clearly by reference to section 29 of the Tribunals, Courts and Enforcement Act 2007.
5. The Respondent's application for an award of costs as set out in paragraph 8 of that application is made on the basis that the applicant acted unreasonably in bringing the section 24(1) application. The Respondent is not, therefore alleging wasted costs as against the applicant.
6. The Tribunal therefore has to determine whether the applicant acted "unreasonably" in relation to bringing the claim in the first instance.
7. The test for acting unreasonably remains as that envisaged under paragraph 10 of schedule 12 to the Commonhold & leasehold Reform Act 2002 in that the conduct has to be "frivolous, vexatious, abusive, disruptive....etc". The test is therefore a legal one and the burden upon the Respondent in showing unreasonable conduct is a high one. Rule 13 is not designed to provide the Tribunal with a wider ability to make inter-parties costs orders.
8. Paragraph 8 of the application sets out relevant quotes from the Decision Notice. None of these bring the circumstances of the bringing of proceedings within the scope of making them unreasonable. There is a further table in paragraph 14 of the Respondent's document of the 06 February 2015 which again sets out relevant sections from the Decision Notice but which again do not bring the bringing of proceedings within the scope of making them unreasonable.

9. Whilst the Tribunal is of the view that the bringing of the proceedings by the Applicant was ill advised we are not of the view that the proceedings were unreasonable. We are satisfied that the application under section 24 was invoked in order to address (in their view) legitimate concerns that the Applicant had in relation to the management of the property. The Tribunal found that those concerns were unwarranted and in some instances without foundation but we did not go as far as to find that any of the grounds for the application or the application itself was vexatious, abusive, disruptive or unreasonable in the legislative sense of the word.
10. Accordingly the application for costs is dismissed.
11. In reaching this conclusion the Tribunal took into account all documents placed before it including the Respondent's response to the Applicant's Response to the Respondent's application for costs and was able to make a decision without holding a hearing. In our view the holding of a hearing would have constituted an unnecessary further expense for the parties to these proceedings.