



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

Case Reference : **LON/00AJ/HPO/2015/0010**

Property : **Outbuilding at the rear of 118 West
End Road, Southall, UB1 1JL**

Applicant : **Manoj Kumar**

Representative : **In person**

Respondent : **London Borough of Ealing**

Representative : **In house**

Type of Application : **(1) Appeal against a Prohibition
Order
(2) Application for costs**

Tribunal : **Judge Dickie
Mr M Cartwright FRICS**

DECISION

Decision of the tribunal

The appeal against the Prohibition Order of 1 July 2015 is struck out.

The Appellant's application for costs under Rule 13(1) is dismissed.

The Respondent shall refund to the Appellant the tribunal application fee of £155 within 28 days.

The application

1. The Appellant brought an appeal on 3 August 2015 against a Prohibition Order dated 1 July 2015 in respect of the property known as Outbuilding at the rear of 118 West End Road, Southall, UB1 1JL.

2. Directions were issued by the tribunal on 7 August 2015. No party having requested an oral hearing, the tribunal has considered it appropriate to determine this application on the papers.
3. On 23 September 2015 the Respondent local authority issued a revocation of the Prohibition Order. Its reason given for this step was that insufficient notice of the inspection of the property on 28 May 2014 had been given. However, the local authority on 23 September 2015 issued a new Prohibition Order, notifying the Appellant of his right to appeal to this tribunal within 28 days.
4. On 1 October 2015 the tribunal wrote to the parties notify them that a procedural judge was minded to treat the existing appeal as withdrawn, and that if the Appellant wished to appeal the Prohibition Order of 23 September 2015 he should make a further application to the tribunal within 28 days of that date. This tribunal concurs with the view of the procedural judge expressed to the parties that it has no jurisdiction to treat the existing appeal as an appeal against the Prohibition Order of 23 September 2015. However, a fresh appeal against that new Prohibition Order was indeed made, having been received by the tribunal on 19 October 2015. The determination of that appeal is not a matter before the present tribunal. That appeal is currently listed for oral hearing on 20 January 2016.
5. The Appellant has objected to his appeal against the first Prohibition Order being treated as withdrawn. He argues it should be decided in his favour and that the tribunal should make an order for costs in his favour under Rule 13 of the Tribunal Procedure (First Tier Tribunal)(Property Chamber) Rules 2013. Rule 13(1)(b) empowers the tribunal to make an order for costs “if a person has acted unreasonably in bringing, defending or conducting proceedings”.
6. The Appellant considers that the Respondent has acted unreasonably in resisting the appeal up until 23 September 2015, putting him to substantial expense and wasting his time. He also points out that during the appeal process the Respondent obtained a court warrant to reinspect the property. The Respondent has written to the tribunal on 11 November 2015 advising that it does not contest the costs submission.
7. The power to award costs is discretionary. The Respondent decided to revoke the first Order on the basis of a technical failure to comply with provisions of the Housing Act 2004. It has decided not to contest the appeal once it identified what it considered to be an error. The tribunal is not persuaded that its conduct was unreasonable in doing so, and even if it was there has been limited prejudice to the Appellant. The time spent by the Appellant in relation to this appeal was largely not wasted, since he has made an appeal and submitted a very similar bundle of evidence in relation to his appeal against the reissued

Prohibition Order. The Appellant expresses outrage at the conduct of the local authority in respect of this property, but it is far from clear that there is merit in his overall stance. Furthermore, the claim for costs of £400 a day for three days is unsupported by any evidence and is inflated both in respect of time and daily rate.

8. In the circumstances the tribunal is not satisfied that a ground for an order for costs is made out, and it in any event on consideration of its discretion, would decline to make an order for costs in the favour of the Appellant. It does, however, make an order pursuant to rule 13(2) that the Respondent reimburse to the Appellant his tribunal application fee of £155.
9. Pursuant to Rule 9(2) the Tribunal must strike out the proceedings if it does not have jurisdiction in relation to the them and does not exercise any power to transfer them to another court or tribunal. Pursuant to Schedule 2 of the Housing Act 2004, the powers of the tribunal on an appeal against a Prohibition Order are by order to confirm, quash or vary the Prohibition Order. Since that Order has been revoked and is no longer in existence, the tribunal considers it has no jurisdiction to make any such order in relation to it. Accordingly, the appeal having not been withdrawn, the tribunal must strike it out.

Name: F. Dickie

Date: 14 January 2016