



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

**Case reference** : **LON/00AF/LRM/2019/0018 P**

**Property** : **23 Hammelton Road, Bromley, Kent  
BR1 3PZ**

**Applicant** : **23 Hammelton Road (Bromley) RTM  
Company Limited**

**Representative** : **Mr Stephen Wiles of Prime Property  
Management**

**Respondent** : **Assethold Limited**

**Representative** : **Scott Cohen Solicitors Limited and  
Eagerstates Limited**

**Type of application** : **Costs under the provisions of rule 13  
Tribunal Procedure (First-tier  
Tribunal)(Property Chamber) Rules  
2013**

**Tribunal  
member(s)** : **Tribunal Judge Dutton  
Mrs E Flint FRICS**

**Date of  
determination** : **21st May 2020**

**Date of Decision** : **22<sup>nd</sup> May 2020**

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**DECISION**

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**Decisions of the Tribunal**

- (1) This has been a remote determination on the papers which has been not objected to by the parties. A face to face hearing was not held because it was not practicable and all issues could be determined on papers before us as was set out in our earlier decision. The documents that we were referred to are in a bundle of 42 pages, the contents of which we have noted.

- (2) The tribunal determines that the costs payable by the applicant under the provisions of rule 13 Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 (the Rule) are £679.20 as set out below and are payable within 28 days

### **The application**

1. This application arises from the applicants claim to acquire the right to manage 23 Hammelton Road, Bromley, Kent BR1 3PZ (“the premises”) under Part 2 of Chapter 1 of the Commonhold and Leasehold Reform Act 2002 (“the Act”). The matter was determined by us on 27<sup>th</sup> November 2019 (the decision) when we found that the applicant did have the right to manage the premises but also found that there had been unreasonable conduct as set out in our decision dated that day.
2. The decision contained directions for this matter to be determined as a paper case. Those directions have been complied with and we have details of the costs sought by the respondent, arguments in support of that claim and a response from the applicant, to which the respondent had replied. We considered these documents in reaching our determination.
3. The respondent seeks to recover £594 in respect of solicitors’ costs (Scott Cohen) and £1,500 plus VAT for the costs of Eagerstates Limited, giving a total claimed for preparing and attending the hearing in November of £2,394.
4. A review of the solicitors’ costs shows an hourly rate of £270 for Miss Scott and records some 6 letters being sent and ½ hour telephone attendances. In addition, some 12 minutes was spent perusing a decision, said to be dated 30<sup>th</sup> September 2019, and the bundle presumably for this determination. The invoice from Eagerstates records £1,050 for attending the hearing in November and a further £450 for liaising with the freeholder and the solicitors.
5. In a response the applicants, through Mr Wiles of Prime Management, firstly submits that there should be no costs payable for the reasons set out and that if costs are payable, they should be limited to £585, inclusive. We have noted all that is said.
6. In addition to the initial submission from the respondent, which we have noted, the response highlights our comments in the decision that had the applicant dealt with requests for production of a missing document the hearing might well have been avoided.

## **The law**

7. The provisions of the Rule are set out below. We had at the hearing in November considered the terms of the Willow Court case and have decided the costs to be assessed on a summary basis.

## **Findings**

8. We have already indicated in our decision in November 2019 that the applicant was liable to pay the respondent's costs for the hearing, so it is unnecessary for us to go into that element. Our task is to assess the costs claimed by and on behalf of the respondent on a summary basis. We do not accept that the respondent is unable to recover any costs. We have already made a finding that the applicant acted unreasonably and we are satisfied that the unreasonable conduct resulted in the respondent incurring more costs than would have been the case had the applicant complied with directions. We set out in the decision our findings in this regard.
9. We have reviewed the costs of Miss Scott. The hourly rate seems reasonable and indeed is not challenged. We are surprised that it was necessary to spend some 6 units on correspondence and over an hour on telephone attendances and perusal. Taking the matter in the round we consider that half the units for correspondence would have been sufficient, limited as it is to the hearing preparation and a further half hour for perusal of the November decision (we assume it is a typographical error referring to the September hearing) and generally. This gives a costs claim of £216, plus VAT, giving a total of £259.20.
10. The costs of Eagerstates Limited even at first flush seem excessive. The hearing was very short and even allowing for some preparation time we do not consider that more than 8 hours as claimed is sustainable as a claim for costs in this case. It is, we find, an unrealistic and excessive claim. We will accept the hourly rate of £175 but find that no more than 2 hours should have been spent on this matter, which revolved around one notice. In those circumstances we are prepared to allow £350, plus VAT for the costs of Eagerstates.
11. This gives a total sum of £679.20 as being the costs which we find are payable by the applicant for the unreasonable conduct in the course of these proceedings. This sum is to be paid within 28 days.

**Name:** Tribunal Judge Dutton      **Date:** 22<sup>nd</sup> May 2020

## **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

*Rule 13 Orders for costs, reimbursement of fees and interest on costs*

*13. (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.*

*(2) 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 which has not been remitted by the Lord Chancellor.*

*(3) The Tribunal may make an order under this rule on an application or on its own initiative.*

*(4) A person making an application for an order for costs*

*(a) must, unless the application is made orally at a hearing, send or deliver an application to the Tribunal and to the person against whom the order is sought to be made; and*

*(b) may send or deliver together with the application a schedule of the costs claimed in sufficient detail to allow summary assessment of such costs by the Tribunal.*

*(5) An application for an order for costs may be made at any time during the proceedings but must be made within 28 days after the date on which the Tribunal sends*

*(a) a decision notice recording the decision which finally disposes of all issues in the proceedings; or*

*(b) notice of consent to a withdrawal under rule 22 (withdrawal) which ends the proceedings.*

*(6) The Tribunal may not make an order for costs against a person (the paying Person) without first giving that person an opportunity to make representations.*

*(7) The amount of costs to be paid under an order under this rule may be determined by*

*(a) summary assessment by the Tribunal;*

*(b) agreement of a specified sum by the paying person and the person entitled to receive the costs (the receiving person);*

*(c) detailed assessment of the whole or a specified part of the costs (including the costs of the assessment) incurred by the receiving person by the Tribunal or, if it so directs, on an application to a county court; and such assessment is to be on the standard basis or, if specified in the costs order, on the indemnity basis.*

*(8) The Civil Procedure Rules 1998(1), section 74 (interest on judgment debts, etc) of the County Courts Act 1984(2) and the County Court (Interest on Judgment Debts) Order 1991(3) shall apply, with necessary modifications, to a detailed assessment carried out under paragraph (7)(c) as if the proceedings in the Tribunal had been proceedings in a court to which the Civil Procedure Rules 1998 apply.*

*(9) The Tribunal may order an amount to be paid on account before the costs or expenses are assessed.*