



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

Case reference : **LON/00BG/LSC/2021/0253**

**HMCTS code
(paper, video,
audio)** : **P: PAPERREMOTE**

Property : **Turnour House, Walburgh Street,
London E1 2NJ.**

Applicant : **Lepex Holdings Limited.**

Representative : **Howard Benjamin Solicitors Limited.
Mr. Steven Ross.**

Respondent : **The leaseholders of flats
1,4,5,7,8,9,10,12,14,15 and 16 Turnour
House.**

Representative :

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

**Tribunal
member(s)** : **Tribunal Judge Aileen Hamilton-Farey**

Venue : **Remote.**

Date of decision : **29 June 2022.**

DECISION ON COSTS

Covid-19 pandemic: description of hearing

This has been a remote determination on the papers which has not been objected to by the parties. The form of determination was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined on the papers. The documents that the Tribunal were

referred to are a statement of case on the part of the applicants, the original decision of the tribunal, the contents of which have been noted. The tribunal has not heard from the respondents in this matter and has therefore proceeded to make a determination in their absence.

DECISION:

The tribunal accepts the Applicant's application under rule 13(1)(b) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and makes the order for costs in the sum of **£11,676.00** this sum should be paid by the respondents within 28 days of this decision.

REASONS:

1. The applicant is the freehold of the premises. On 19 July 2021 it applied for a determination of the payability by the respondents of the estimated costs of major works required to the building.
2. At a direction hearing on 17 August 2021, the respondents' representative informed Judge Korn that many of the respondents had not received S.20 notices and they did not accept as a matter of lease construction that the applicants were entitled to make on-account demands for the works.
3. Judge Korn directed those two preliminary issues be determined at a hearing.
4. Prior to the hearing it was accepted by all of the respondents that the applicant was entitled to make 'on-account' demands and with this matter being agreed, no further determination was required. At the same time all of the respondents, except one (Messrs Hussain) accepted that there had been good service of the S.20 notices.
5. A hearing of the remaining issue relating to Messrs Husain was heard by the tribunal on 9 February 2022. Having heard the evidence, the tribunal found that the S.20 notices had been validly served, mainly due to the fact that Mr. Hussain's evidence did not support his contention that he had not received the notices.
6. The applicants now make an application for their costs on the basis that the respondents have acted unreasonably in their conduct of the proceedings in relation to the preliminary issues.
7. The basis for the application is that the respondents should not have raised the issue of whether the applicant was entitled to demand sums on account because there was no arguable case, and the respondents abandoned the issue after the applicant had served its statement of case.

8. Secondly the applicants say that at the directions hearing the tribunal was informed that 'many' of the respondents claimed not to have received the S.20 notices which was clearly incorrect. All of the respondents, except Messrs Hussain conceded this point prior to the hearing.
9. As already noted, Mr. Hussain's evidence at the hearing was poor. The full details of this evidence are recorded in the tribunal's decision and are not repeated here.
10. The tribunal is satisfied that the respondents acted unreasonably in pursuing the matter, putting the applicant to wasted costs, when all issues in relation to liability were conceded and all but one leaseholder had conceded on the second issue.
11. The tribunal has been provided with a schedule of costs claimed. We accept the costs claimed for perusing documentation and advising together with the costs of Mr. Ross, a total of £6,230.00.
12. With respect to the fees for the hearing we find these to be too high at £5,300.00. We find that for a relatively simple case such as this, especially given the concessions made by the respondents prior to the hearing and the narrowing of the issues to only one respondent, that £3,500 would be a reasonable fee for Mr. Armstrong to cover both the hearing itself and the pre-hearing fees. We award this sum.
13. The tribunal therefore makes an award under Rule 13 for costs in the total sum of £9,730.00 to which VAT at 20% should be added. The final sum £11,676.00 should be paid by the respondents within 28 days of this decision.

Tribunal Judge: Aileen Hamilton-Farey
Date: 29 June 2022.