



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

**Case Reference** : **MAN/30UQ/LAC/2015/0003**

**Property** : **35 Sandwell Avenue, Thornton Cleveleys,  
Lancashire, FY5 4FN**

**Applicant** : **Fellway Ltd.**

**Respondent** : **Keith Barton**

**Type of Application** : **Application for costs under rule 13 Tribunal  
Procedure (First-tier Tribunal) (Property  
Chamber) Rules 2013**

**Tribunal Members** : **Judge P Forster  
P Mountain FRICS**

**Date of Decision** : **14 August 2015**

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**DECISION**

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## DECISION

1. The Tribunal does not have jurisdiction to determine the Respondent's application for costs against the Applicant.
2. The proceedings shall be referred back to the County Court to determine the outstanding issues in dispute.
3. The Applicant issued proceedings against the Respondent in the County Court to recover £684.00. That sum was in respect of ground rent of £100.00 and administration charges of £200.00 and legal costs of £384.00.
4. An order was made on 14 January 2015 in the Macclesfield County Court under claim number A5JB2665 that the proceedings be transferred to the First-tier Tribunal "for determination of the issue of the reasonableness of the administrative charge".
5. The power to transfer proceedings or issues to the Tribunal is in s.176A of the Commonhold and Leasehold Reform Act 2002.
6. The Tribunal issued directions on 6 March 2015 and subsequently considered the statements of case submitted by both parties. The Tribunal concluded that it was not able to determine the reasonableness of the administration charges until additional information was supplied by the Applicant.
7. The Applicant's submission had only dealt with the administration charges of £200.00 and did not address the legal costs of £384.00. Those costs came within the definition of "administration charge" as set out in paragraph 1(1) (c) and (d) of Schedule 11 of the Commonhold and Leasehold Reform Act 2002 and therefore also fell to be considered by the Tribunal.
8. Further, the Applicant had not complied with paragraph 2 of the directions order that required it to identify the relevant clauses in the Lease under which the charges were claimed.
9. The Applicant was ordered to provide the Tribunal with the required information.
10. On 22 June 2015, the Applicant's solicitors wrote to the Tribunal stating that the Applicant "has decided to take a commercial view... and has now waived the administration charges in the sum of £200.00 and the legal fees in the sum of £384.00, leaving the outstanding balance of £100.00 in respect of ground rent". The Applicant asked the Tribunal to transfer the case back to the County Court because the Tribunal has no jurisdiction in respect of ground rent.
11. On 25 June 2015, the Respondent wrote to the Tribunal asking for costs to be awarded against the Applicant on the grounds that it had acted unreasonably by

- failing to comply with the Tribunal's directions and failing to disclose relevant information.
12. The Tribunal invited both parties to make written submissions on the question of the Tribunal's jurisdiction to make an order for costs against the Applicant. Both parties filed submissions about the Tribunal's power under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, but they did not consider the Tribunal's jurisdiction where the proceedings, as in this case, had been transferred from the County Court.
  13. In *Lennon v Ground Rents (Regisport) Limited [2011] UKUT* the landlord issued proceedings in the County Court for the recovery of both service charges and administration charges. The leaseholder disputed his liability to pay certain parts of the claim. The matter was transferred to the Tribunal for determination of the reasonableness of only the service charges part of the amount in dispute. However, despite the wording of the court's transfer order, the Tribunal also went on to determine the reasonableness of the administration charges and other service charges not mentioned in the transfer order.
  14. In the Upper Tribunal's decision it was that *'the Tribunal's jurisdiction flows from the County Court and such jurisdiction is limited to the amount claimed in respect of the service charge dispute only. Other issues, such as interest and County Court costs remain within the jurisdiction of the County Court.'*
  15. The Tribunal's jurisdiction is limited to dealing with the question that was transferred to it, in this case to determine the reasonableness of the administration charge. That issue was resolved by the Applicant when it withdrew the claims for £200.00 and £384.00. That was done before the Tribunal had considered matters and in particular satisfied itself that there were relevant charging clauses in the Lease under which the charges were payable. In these circumstances, the Tribunal does not have jurisdiction to make a costs order against the Applicant.
  16. The Tribunal has no jurisdiction in respect of the claim for ground rent. The proceedings must be referred back to the County Court for that issue to be dealt with. In the County Court this was a Small Claims Track case where costs are not usually recoverable. Any issues about costs or interest should be left to the District Judge.

**Judge P Forster**  
**Dated: 14 August 2015**