

12318

		FIRST-TIER TRIBUNAL PROPERTY CHAMBER (RESIDENTIAL PROPERTY)
Case reference	:	LON/00BE/LDC/2017/0043
Property	:	117 Queen's Road, London SE15 2EZ
Applicant	:	SQA Development Ltd
Representative	:	Mr N Broome
Respondents	:	Mr B Patel Mr P Patel Mr M Patel
Representative	:	
Type of application	:	For dispensation of all or any of the consultation requirements
Tribunal members	:	Mr S Brilliant
Date and Venue of hearing	:	5 July 2017, 10 Alfred Place, London WC1E 7LR
Date of decision:	:	6 July 2017
Date of costs decision	:	7 August 2017

Decision of the Tribunal

The Tribunal orders the Respondents, jointly and severally, to pay the Applicant costs of £535.00 by 4.00 PM 6 September 2017. In addition, the Respondents were ordered in paragraph 19 of the decision dated 6 July 2017 to reimburse the Applicant the fee of £200 by 4.00 PM 19 July 2017.

The application

1. On 6 July 2017, I made a determination, pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”), dispensing with the consultation requirements provided for by section 20 of the Act in respect of urgent work undertaken at 117 Queen’s Road, London SE15 2EZ.
2. Rule 13(1)(b)(iii) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 provides that the Tribunal may make an order in respect of costs only if a person has acted unreasonably in bringing, defending or conducting proceedings in a leasehold case.
2. A “leasehold case” means a case in respect of which the Tribunal has jurisdiction under any enactment specified in s.176A(2) of the Commonhold and Leasehold Reform Act 2002.
3. One of the enactments specified in s.176A(2) is the 1985 Act.
4. Accordingly, I have jurisdiction to make a costs order if I find that the Respondents have acted unreasonably in defending or conducting these proceedings.
5. On 17 July 2017, the Applicant made an application for costs on the grounds that the Respondents’ failure to appear at the hearing on 5 July 2017 was unreasonable.

6. The Applicant asked for the following costs:

Mr Broome’s attendance at the hearing (4 hours at £19.00 per hour).	£76.00
Time spent on preparing the documents for the hearing (12 hours at £19.00 per hour).	£228.00
Solicitors’ costs.	£231.00
Total	£535.00

7. The Tribunal provided a copy of the application to the Respondents, and asked for a response within 14 days. No response has been received.

The facts

8. In November 2015, the Applicant discovered that the front parapet wall on the London roof of the property was leaning forwards and was at the point of collapsing onto the main road. Work was started almost straightaway as a matter of urgency on removing and replacing the parapet wall.
9. In paragraph 17 of my decision dated 6 July 2017, I held that no financial prejudice had been identified by the Respondents. It was in the interest of public safety that the parapet wall was repaired at very short notice. The application succeeded.

- (3) Applications under r.13(1)(b) should not be regarded as routine, should not be abused to discourage access to the tribunal and should not be allowed to become major disputes in their own right. They should be dealt with summarily, preferably without the need for a further hearing, and after the parties have had the opportunity to make submissions. Those submissions are likely to be better framed in light of the tribunal's substantive decision rather than in anticipation of it, and applications at interim stages or before the substantive decision should not be encouraged

Applying the law to the facts

16. In my judgement, it was unreasonable for the Respondents to have insisted on an oral hearing, when a paper hearing could easily have been arranged, and when, as I find, they had no intention whatsoever of appearing at the hearing.
17. It is not just discourteous, but also unreasonable, for the Respondents to have made no contact whatsoever with the Tribunal, after having elected to have an oral hearing.
18. In the light of this unreasonable contact, I have decided that it is just and fair for the Respondents to pay the reasonable and proportionate costs of the Applicant.
19. The insistence by the Respondents on an oral hearing has directly led to the incurring of the costs being claimed by the Applicant.
20. The solicitors' costs of £192.50 plus VAT of £38.50, were in respect of advice and discussions regarding the emergency works and the application for dispensation. I find those costs both reasonable and proportionate.
21. The amount of time spent on attendance and preparation is also reasonable and proportionate.
22. Accordingly, I determine that the Respondents are to pay costs of £535.00 to the Applicant.

Simon Brilliant
7 August 2017