



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

Case Reference	:	LON/00AG/OCE/2014/0291
Property	:	15a & 15b Ladysmith Road, Harrow, HA3 5DU
Applicant	:	Lina Orihunu, Dinesh Shonchhatra and Rashmika Shonchhatra
Respondent	:	Messrs Quality Solicitors Rose and Rose
Type of Application	:	S33 Costs
Tribunal judge	:	Angus Andrew
Date of directions	:	7 April 2015

DECISION

Decision

Pursuant to rules 9 (2) (a) and (3) (a), (b), (d) and (e) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the whole of these proceedings are struck out.

Reasons

1. The applicants are the tenants and claimed the freehold interest in the property. On 23 October 2014 the tribunal received an application for a determination of the terms of acquisition. It was apparent that the application was intended to be for the determination of the statutory costs that are payable to the landlord. The respondent was identified as Messrs Quality Solicitors Rose & Rose and the freeholder was named as R. A. Management Limited.
2. As the applicants were in person the tribunal accepted the application and proceeded on the assumption that the correct

respondent was R. A. Management Limited represented by Messrs Quality Solicitors Rose & Rose. With the benefit of hindsight that was a mistake. Nevertheless standard directions were issued on 11 February 2015. The directions required the applicants to submit document bundles by 24 March 2015 on the basis that the application would be determined without an oral hearing during the week commencing 6 April 2015. The directions concluded with a warning that non-compliance could result in the striking out of the application in accordance with rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

3. The tribunal has since received a letter from Greenwood & Co solicitors who act for the freeholder, Mr Kalamán Abelesz whose managing agents are R. A. Management Limited. On the basis of that letter I am satisfied that:-
 - a. There was a deemed withdrawal of the applicants' claim; and
 - b. The statutory costs were previously agreed by the applicants' former solicitors and the landlord is seeking recovery of those costs in the County Court; and
 - c. Quality Solicitors Rose & Rose acted for the applicants; and
 - d. This dispute is between the applicants and their former solicitors and not between the applicants and the landlord and that consequently the applicants intended to identify Quality Solicitors Rose & Rose as the respondent to the application.
4. Consequently the tribunal has no jurisdiction in respect of these proceedings because (a) the statutory costs were agreed and (b) under the Leasehold Reform, Housing and Urban Development Act 1993 the tribunal has no jurisdiction to determine solicitor and own client costs.
5. In any event the applicants have failed to comply with the tribunal's directions. They have failed to engage with the tribunal and no bundles have been received. There is no evidence before the tribunal that would enable it to determine the statutory costs even if it had jurisdiction to do so.

Name: Angus Andrew

Date: 7 April 2015

Appendix of relevant legislation

The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

Striking out a party's case

9.—(1) The proceedings or case, or the appropriate part of them, will automatically be struck out if the applicant has failed to comply with a direction that stated that failure by the applicant to comply with the direction by a stated date would lead to the striking out of the proceedings or that part of them.

(2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal—

- (a) does not have jurisdiction in relation to the proceedings or case or that part of them; and
- (b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.

(3) The Tribunal may strike out the whole or a part of the proceedings or case if—

- (a) the applicant has failed to comply with a direction which stated that failure by the applicant to comply with the direction could lead to the striking out of the proceedings or case or that part of it;
- (b) the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly and justly;
- (c) the proceedings or case are between the same parties and arise out of facts which are similar or substantially the same as those contained in a proceedings or case which has been decided by the Tribunal;
- (d) the Tribunal considers the proceedings or case (or a part of them), or the manner in which they are being conducted, to be frivolous or vexatious or otherwise an abuse of the process of the Tribunal; or
- (e) the Tribunal considers there is no reasonable prospect of the applicant's proceedings or case, or part of it, succeeding.

(4) The Tribunal may not strike out the whole or a part of the proceedings or case under paragraph (2) or paragraph (3)(b) to (e) without first giving the parties an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings or case, or part of them, have been struck out under paragraph (1) or (3)(a), the applicant may apply for the proceedings or case, or part of it, to be reinstated.

(6) An application under paragraph (5) must be made in writing and received by the Tribunal within 28 days after the date on which the Tribunal sent notification of the striking out to that party.

- (7) This rule applies to a respondent as it applies to an applicant except that—
- (a) a reference to the striking out of the proceedings or case or part of them is to be read as a reference to the barring of the respondent from taking further part in the proceedings or part of them; and
 - (b) a reference to an application for the reinstatement of proceedings or case or part of them which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent from taking further part in the proceedings, or part of them.

(8) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Tribunal need not consider any response or other submission made by that respondent, and may summarily determine any or all issues against that respondent.