



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

**Case Reference** : **LON/00AR/HNA/2020/0006**

**HMCTS code  
(paper, video,  
audio)** : **V: CVP REMOTE**

**Property** : **10 Albany Road Hornchurch Essex  
RM12 4AF ( “the Property”)**

**Appellant** : **Richard Vaz**

**Representative** : **In person**

**Respondents** : **London Borough of Havering**

**Representative** : **Mr Henry Gordon of Counsel**

**Type of  
Application** : **Appeal under s.249A and schedule 13A  
of the Housing Act 2004**

**Tribunal Members** : **Judge Professor Robert Abbey and Mr  
T. Sennett (Professional Member) and  
Ms J Hawkins (Lay Member)**

**Date of Hearing** : **16 October 2020**

**Date of Decision** : **19 October 2020**

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**DECISION**

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This has been a remote video hearing. The form of remote hearing was V: CVP REMOTE. A face-to-face hearing was not held because or it was not

practicable due to the covid-19 pandemic, and all issues could be determined in a remote hearing.

## **Decision**

1. The applicant has not responded to various Directions issued by the Tribunal and, accordingly, the proceedings have been struck out pursuant to rule 9(3) of the Tribunal (Procedure) (First-tier Tribunal) (Property Chamber) Rules 2013.
2. In the light of the above, the appeal by the appellant against the imposition of two financial penalties by the London Borough of Havering under section 249A and schedule 13A of the Housing Act 2004 is therefore struck out.

## **Introduction**

3. This is an appeal by Richard Vaz against the imposition of two financial penalties made by the London Borough of Havering under section 249A and schedule 13A of the Housing Act 2004. The Financial Penalty Notices from the local authority are dated 13 December 2019 and are in the sum of £2,500 and £10,000.

## **The Hearing**

4. The appeal was set down for hearing on 16 October 2020 when Havering was represented by Mr Henry Gordon of Counsel. Mr Vaz appeared in person.
5. At the start of the hearing Counsel for the respondent made an application under Rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013/1169), (“the Rules”). The contents of Rule 9 can be found in the appendix to this decision.
6. The applicant was invited to respond to this Rule 9 application and he did so and his representations were taken into account by the Tribunal when coming to this decision.

## **Decision and Reasons**

7. The Tribunal has decided to strike out these proceedings brought by the applicant.
8. The Tribunal is regulated by the Rules. The Rules set out what the parties must do and what they can expect the Tribunal will do. The Rules set out the powers of the Tribunal in the conduct of litigation before it. For example, Rule 6 (2) states that the Tribunal may give a direction in relation to the conduct or disposal of proceedings at any time and Rule 7 sets out procedures about directions. To be clear a

direction is an instruction usually in writing to do something required by the Tribunal.

9. In this dispute directions were issued on 22 January 2020 by the Valuer Chair Ian Holdsworth. Clause 5 of these directions stated: -

**“How the Applicant should prepare for the hearing**

*The Applicant must also prepare a bundle of relevant documents for use at the hearing and, by **25<sup>th</sup> March 2020**, must send **three copies** of the bundle to the Tribunal and **one copy** to the Respondent. The bundle must be in a file, indexed, numbered page-by-page and must include:*

- (i) *A copy of the appeal form and accompanying documents;*
- (ii) *An expanded statement of the reasons for the appeal, which should include any additional grounds upon which the Applicant wishes to rely and any response to the respondent’s case;*
- (iii) *Confirmation of the meeting for possible settlement, as directed above;*
- (iv) *If the Applicant decides to instruct an expert, such as a surveyor, copies of any expert’s report to be relied upon;*
- (v) *Any witness statements of fact to be relied upon, with numbered paragraphs and ending with a statement of truth and the signature of the witness; and*
- (vi) *Any other documents to be used at the hearing including, where appropriate, copy correspondence, plans and colour photographs.”*

10. The applicant failed to comply with these very explicit directions. He did not respond at all. This was notwithstanding that the directions also included this explicit warning set out in the document in bold lettering to emphasise the importance of compliance with the directions:-

**“If the Applicant fails to comply with these Directions the Tribunal may strike out all or part of their case pursuant to rule 9(3)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the 2013 Rules”).”**

11. Counsel for the respondent informed the Tribunal that subsequently the applicant was also given the opportunity to comply first on the 3

August (and by the 17 August) and secondly on 20 August but in both cases without reply.

12. Thereafter the applicant wrote to the Tribunal on 17 September 2020 to ask for an adjournment. On the same day Judge Carr replied saying as follows: -

“Judge N Carr has considered the Applicant's request, made on 17 September 2020, to vacate the hearing scheduled on 16 October 2020 so that he can *“put together documentation to address points raised in the Bundle sent by the Council.”*

I note that the original directions anticipated that Mr Vaz have until 25 March 2020 to do so, and that Mr Vaz has had no fewer than 4 opportunities to make such a request, the last being given by Judge Martynski on 20 August 2020 by letter in which he stated:

“The hearing of this matter will take place by video on Friday 16 October 2020 starting at 10.30am.

The papers to be used at the hearing will be:

- (a) the bundle sent in by the Council
- (b) the Applicant's application and the papers that were attached to that application form

If the parties wish to rely upon any other documents, they should **let the tribunal know immediately.**”

As can be seen by the date of Mr Vaz's request, it was made almost a month after Judge Martynski's directions”

13. At the end of this letter Judge Carr went on to say (underlining by this Tribunal) : -

“Mr Vaz is directed to write to the tribunal by no later than **25 September 2020**, cc'd to the Respondent, as follows:

1. The reasons why he has not prepared his case papers before now (it being some six months since he was due to);
2. What further materials he proposes to put forward;
3. how long he estimates it will take him to put together those materials; and
4. why he did not ask the tribunal for an extension of the directions at an earlier stage.

The Respondent shall make any response to the Applicant's request for further time by no later than **2 October 2020.**”

14. There was no reply recorded by the Tribunal to that letter.

15. At the hearing and in reply to the respondent's application, Mr Vaz referred the Tribunal to a letter he said he had submitted to the Tribunal dated 6 January 2020. He asserted that this letter set out his position and was what he replied upon as his case. His application to the Tribunal is dated 8 January 2020. Mr Vaz also says he emailed the letter on 7 January 2020. The letter was not in the trial bundle and Counsel for the respondent confirmed that the local authority did not have it before them at the hearing either. In any event a copy of this letter had not been submitted in response to any of the four opportunities he was given to properly make his case.
16. In the light of the above the Tribunal was satisfied that 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 as provided for in Rule 9 (3) (a). Furthermore, the Tribunal was satisfied that the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly and justly, see Rule 9 (3) (b). Finally, the Tribunal on perusal of the papers that comprised the trial bundle took the view that there was no reasonable prospect of the applicant's proceedings or case succeeding, (Rule 9 (3) (e)).
17. Therefore, the appeals by the appellant against the imposition of two financial penalties by the London Borough of Havering under section 249A and schedule 13A of the Housing Act 2004 are dismissed.
18. Rights of appeal are set out in the annex to this decision.

**Name:** Judge Professor Robert  
Abbey

**Date:** 19 October 2020

**Annex**  
**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).

## Appendix

### The Tribunal Procedure (First-tier Tribunal) (Property Chamber)

#### Rules 2013 (SI 2013/1169)

#### **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.