

UPPER TRIBUNAL (LANDS CHAMBER)



**UT Neutral citation number: [2019] UKUT 252 (LC)
UTLC Case Number: LRX/48/2018**

LANDLORD AND TENANT – RIGHT TO MANAGE - COSTS

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE FIRST TIER
TRIBUNAL (PROPERTY CHAMBER)**

BETWEEN:

WESTLEIGH PROPERTIES LIMITED

Appellant

and

47 PARK HILL (CARSHALTON) RTM

Respondent

**Re: 47 Park Hill,
Carshalton,
SM5 3SD**

Elizabeth Cooke, Upper Tribunal Judge

Determination on Written Representations

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Introduction

1. On 21 February 2019 the First-tier Tribunal (“the FTT”) made a decision about the validity of a claim notice, dated 15 October 2018, seeking the right to manage property at 47, Park Hill, Carshalton, Surrey. The respondent to this appeal was the applicant in the FTT, and I refer to it as “the RTM company”.
2. The FTT conducted a hearing at which the RTM company was represented. Westleigh Properties Ltd did not attend, but relied upon a written statement. The FTT determined that the claim notice satisfied all the requirements of section 80 of the Leasehold Reform Act 2002 and that it was therefore a valid notice entitling the RTM company to manage the subject property.
3. There is no appeal from that decision. However the FTT then said, at paragraph 8 of its decision:

“In the absence of any specified arguable grounds on which to challenge the Applicant’s Claim Notice, the tribunal determines that the Respondent has acted unreasonably in persisting with its opposition to the Applicant’s claim. The tribunal accepts the costs incurred as set out in a schedule provided by the Applicant. The tribunal finds that the costs of £1,515 (including VAT) are reasonable and therefore determines that this amount should be paid to the Applicant by the Respondent.”
4. The appellant sought permission to appeal on the basis that the FTT made a costs order under Rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 without explanation, beyond the assertion that the applicant had acted unreasonably in resisting the claim, and that it accepted the RTM company’s schedule of costs without giving the appellant the opportunity to comment on it.
5. I gave permission to appeal on both those bases. In giving permission I noted that the RTM company had chosen not to make written representations when invited to do so by the Upper Tribunal under rule 21(8) of the Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010. I directed that if it wished to participate in the appeal it must file and serve a respondent’s notice by 7 August 2019 and that if it did not do so the appeal would be allowed and the application for costs would be remitted to the FTT.
6. The RTM company has not filed a respondent’s notice. Accordingly the appeal is allowed and the RTM company’s application for costs is remitted to the FTT for it to make a fresh decision.

Dated 15 August 2019

A handwritten signature in black ink, appearing to read 'E. Cooke', enclosed within a faint rectangular border.

Elizabeth Cooke
Upper Tribunal Judge