



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

Case reference : LON/00AC/OLR/2014/1041

Property : 29 & 31 Kitchener Road, London N2
8AS

Applicants : Ms E Groves and Ms S Eady

Representative : Hill Dickinson LLP

Respondent : Mr K Anand

Representative : Now in person

Type of application : Costs - Rule 13(1) of the Tribunal
Procedure (First-tier Tribunal)
(Property Chamber) Rules 2013

Tribunal member : Angus Andrew

Date of directions : 29 June 2016

DECISION

Decision

I decline to order the applicants and/or their representative to pay all or any part of the respondent's costs.

Reasons for my decision

1. The background to this rule 13 cost application is to be found in (a) the consent to withdrawal and directions issued by Marina Krisko and myself on 5 April 2016 and (b) my directions of 28 April 2016 in respect of the respondent's Rule 13(1) cost application.
2. In preparing this short decision I have had regard to the guidance of the Upper Tribunal at paragraph 43 of its decision in Willow Court Management Company (1985) Limited V Mrs Ratina Alexander and two other joined cases [2016] UKUT 0290 (LC).
3. My directions of 28 April 2016 required the respondent by 13 May 2016 to serve a supplemental statement of case identifying whether the application was made under rule 13(1)(a) or (1)(b) and explaining, as the case may be, the negligent or unreasonable behaviour relied on. The directions concluded with a warning that failure to comply might result in the application being struck out.
4. On 10 June 2016 the tribunal received the respondent's bundle that related both to this application and to two statutory cost applications that are being considered by another tribunal. The bundle is not indexed and I can find nothing in it that amounts to a supplemental statement of case in respect of the rule 13 cost application. In a letter to the respondent of 27 May 2016 the applicants' representative indicates that no supplemental statement of case has been received.
5. The respondent's failure to comply with the directions of 28 April 2016 would justify my striking out his rule 13 cost application. I am nevertheless aware of the behaviour relied on: it is that the applicant's representative omitted to send a copy of its letter to the tribunal of 4 April 2016 to the respondent. That letter sought consent to withdraw the two outstanding new lease applications. In consequence the respondent's representative attended the hearing on 5 April 2016 and claims to have incurred unnecessary costs of £2,900.00. Consequently I consider the application on its merits.
6. The failure to copy a letter to the tribunal to another party is certainly a regrettable if common omission. I am not however persuaded that such an omission in itself amounts to either negligent or unreasonable behaviour: it is an oversight and no more. Even if it could be said to amount to negligent or unreasonable behaviour within the meaning of rule 13 I would not in any event exercise my discretion to award costs.

7. The hearing on 5 April 2016 was listed to consider each applicant's application for a new lease that had been stayed on their collectively claiming the right to acquire the freehold reversion. Their collective right to acquire the freehold reversion was established by a tribunal decision of 23 October 2015. I am told that permission to appeal that decision was refused by the tribunal and that no further application has been made to the Upper Tribunal for permission. The applicants' individual new lease applications were redundant. The respondent appears frequently before the tribunal and prides himself in being a property expert. He should have known that the new lease applications were redundant and that his attendance was unnecessary.
8. Consequently and for each of the above reasons I decline to make a rule 13 cost award in favour of the respondent.

Name: Angus Andrew

Date: 29 June 2016