



[2017] UKFTT 0369 (PC)

REF/2016/0328

**PROPERTY CHAMBER, LAND REGISTRATION
FIRST-TIER TRIBUNAL**

LAND REGISTRATION ACT 2002

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY

BETWEEN

Daljit Kaur

APPLICANT(S)

and

Kilwinder Dalvair

RESPONDENT

**Property Address: 236 Dudley Road, Wolverhampton, WV2 3JU
Title Number: WM399472**

ORDER

Upon hearing the solicitor for the Applicant

IT IS ORDERED as follows:

1. The Chief Land Registrar is to give effect to the Applicant's application dated 27 October 2015 to cancel the unilateral notice dated 27 May 2010 as if the Respondent's objection had not been made.
2. Pursuant to Rule 40(3) of the Tribunals Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 I direct that the Chief Land Registrar reject any future application by the Respondent for the entry of a unilateral notice to protect his interest in financial provision proceedings in divorce unless he produces to the Registrar
 - (a) a copy of his application for such financial provision stamped by the Family Court and

(b) evidence that that application is, at the date of his application to HM Land Registry, under consideration by and the subject of directions given by the Family Court.

3. The Respondent is to pay to the Applicant within 28 days of the date of this order her costs summarily assessed in the sum of £1,000.

Dated this 10 April 2017

Elizabeth Cooke

BY ORDER OF THE TRIBUNAL



[2017] UKFTT 0369 (PC)

REF/2016/0328

**PROPERTY CHAMBER, LAND REGISTRATION
FIRST-TIER TRIBUNAL**

LAND REGISTRATION ACT 2002

IN THE MATTER OF A REFERENCE FROM HM LAND REGISTRY

BETWEEN

Daljit Kaur

APPLICANT(S)

and

Kilwinder Dalvair

RESPONDENT

**Property Address: 236 Dudley Road, Wolverhampton, WV2 3JU
Title Number: WM399472**

Reasons

1. The Applicant and Respondent were formerly married; decree absolute in their divorce was granted on 22 March 2012.
2. On 27 May 2010 the Respondent had a unilateral notice entered on the register of title to the Applicant's property at 236 Dudley Road, Wolverhampton, to protect what he said was his interest in the property in pending financial provision proceedings in the divorce. On 27 October 2015 the Applicant applied to cancel that notice. The Respondent objected to her application and the dispute was referred to the Land

Registration Division of the First-tier Tribunal in accordance with section 73 of the Land Registration Act 2002.

3. The Respondent should have been designated as the applicant in the tribunal proceedings, since it was for him to prove that he was entitled to the protection of the unilateral notice. In the event that made no difference; after exchange of statements of case and disclosure of documents the matter was heard in Centre City Tower in Birmingham before me on 10 April 2017 and the Respondent did not attend. The Applicant attended and was represented by her solicitor Ms Saimi.
4. Rule 34 of the Tribunals Procedure (first-tier Tribunal) (Property Chamber) Rules 2013 permits the tribunal to hear a matter in the absence of the party if it is satisfied that the party has been notified of the hearing and that it is in the interests of justice to proceed with the hearing. I was satisfied that the Respondent had been notified of the hearing. Moreover, it appeared to me from his own Statement of Case that he was not going to be able to justify the retention of the notice on the register, since it appeared that there were no pending financial provision proceedings. Accordingly I took the view that it was in the interests of justice to hear the Applicant's solicitor in the Respondent's absence and I did so.
5. On my return to London after the hearing I was shown an email sent to the Tribunal at 0642 in the morning of 10 April 2017, from Richard Crowie, a mental health support worker, who said that the Respondent was his client, and that the Respondent was suffering from depression and anxiety and would not be well enough to attend the hearing.
6. That email did not request an adjournment. A request for an adjournment would have had to be supported by evidence from a medical practitioner, and so had I seen the email before the hearing and had it requested an adjournment I would not have granted one.
7. At the hearing Ms Saimi confirmed that the divorce proceedings between the parties concluded in 2012, and that no application for financial provision had been made by either party. That much was clear to me from the Respondent's own evidence on the tribunal's file; he had written to say that there were pending proceedings but produced no copy application, no court paperwork, and nothing to support his assertion.

8. Accordingly the Respondent is not entitled to the protection of the notice and I have directed the registrar to respond to the applicant's application as if the Respondent's objection had not been made.
9. It is important for the parties to understand that this Tribunal is not the Family Court and cannot hear or make decisions about the conduct of the parties during the marriage. It appears to me from the Respondent's Statement of Case that he sought to have the Tribunal make a decision about entitlement to the property which can only be made by the Family Court; whether it is still open to either of the parties to apply for financial provision in the divorce proceedings I do not know, but it is important that the Applicant should be protected from any renewed application to HM Land Registry by the Respondent to protect his interest in such proceedings unless such proceedings are in fact in existence. I consider that that protection is needed because these proceedings have been made necessary by the Respondent having applied to HM Land Registry for the entry of a notice to protect his interest in financial provision proceedings that were not in existence and which he clearly had no intention of bringing into existence (since he has made no application for financial provision since the entry of the notice).
10. Rule 40(3) of the Tribunals Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 reads as follows:
 - (3) A direction to the registrar under paragraph (2) must be in writing, must be sent or delivered to the registrar and may include—
 - (a) a condition that a specified entry be made on the register of any title affected; or
 - (b) a direction to reject any future application of a specified kind by a named party to the proceedings—
 - (i) unconditionally; or
 - (ii) unless that party satisfies specified conditions.

11. Accordingly in directing the registrar to give effect to the Applicants application to cancel the unilateral notice I direct that the registrar is to reject any future application by the Respondent for the entry of a unilateral notice to protect his interest in financial provision in divorce proceedings unless he produces to the registrar

(a) a copy of his application for such financial provision stamped by the Family Court and

(b) evidence that that application is, at the date of his application to HM Land Registry, under consideration by and the subject of directions given by the Family Court.

12. Ms Saimi then made an application for costs on behalf of the applicant; she has represented her on a fixed fee basis for £1,000 which on any reckoning is a very modest fee for the preparation of the bundle and representation at the hearing. In this tribunal costs follow the event and the Applicant is entitled to her costs, which I summarily assess in the sum of £1,000.

Dated this 10 April 2017

Elizabeth Cooke

BY ORDER OF THE TRIBUNAL