10077

FIRST-TIER TRIBUNAL

PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	:	**LON/00BH/LSC/2014/0081**
Property	:	**Orchard Court, 239 Shernhall Street, London E17 9EB**
Applicant	:	**Mr H. Singh (Landlord)**
Representative	:	**Hexagon Property Co Ltd (Managing Agent)**
Respondents	:	**Ms E. Lewin (Flat 1) and the seven other leaseholders at Orchard Court**
Representative	:	**Ms E. Lewin**
Type of Application	:	**Service Charges (Major Works) – Section 27A and 20C Landlord & Tenant Act 1985**
Tribunal Members	:	**Judge Lancelot Robson** **Mr T.W. Sennett MA FCIEH** **Mr C. S. Piarroux JP CQSW**
Date and venue of Hearing	:	**21st and 22nd May 2014** **10 Alfred Place, London WC1E 7LR**
Date of Decision	:	**12th June 2014**

DECISION

Decisions of the Tribunal

(1) The Tribunal decided that all the notices and procedures relating to major works in respect of cyclical repair and redecoration carried out in the period 2012 – 2014 are in accordance with Section 20 of the Landlord & Tenant Act 1985. Further the work to be done was reasonable and reasonable in amount.

(2) Following from the above decisions, the estimated charges made by the Respondent in connection with the major works are reasonable and payable in full, and to be paid within 21 days of the date of this decision.

(3) The Tribunal made an order under Section 20C of the Landlord and Tenant Act 1985 to limit the Landlord's costs in connection with this application to Nil, recognising the landlord's concession on this point.

(4) The Respondents shall each reimburse the Applicant one eighth of the fees paid to the Tribunal in respect of this application.

(5) The Tribunal made the other determinations as set out under the various headings in this decision.

The application

1. By an application dated 4th February 2014, (received on 11th February 2014), the Applicant seeks a determination pursuant to Sections 20, 27A, and 20C of the Landlord and Tenant Act 1985 (the Act), relating to estimated service charges for major works to replace the flat roof of the building and attendant works, as notified in a notice of intention dated 16th July 2013 pursuant to a (specimen) lease (the Lease) dated 19th June 2003.

2. A case management conference was held on 11th March 2014 at which the Tribunal identified the following issues in dispute;
   a) whether the estimated costs of the proposed major works were reasonable and payable by the Respondents;
   b) whether the project management costs of 15% were reasonable; and
   c) whether the Lease allowed the Applicant to collect the estimated charges in advance.
   d) An application under Section 20C was also made.

3. The Directions contained a draft "Scott" schedule to enable the parties to summarise the matters in dispute.

4. The Tribunal also noted at the Case Management Conference that it had no jurisdiction in this application under Section 27A to appoint a manager. At the hearing the Tribunal also clarified that it had no jurisdiction under this application to vary the terms of the Lease. These matters would have to be raised in separate applications, if required. The Tribunal also noted that its powers under Section 27A

do not extend to ordering a party to carry out work when no charge was made or anticipated for such work.

5. Extracts of the relevant legislation are contained the Appendix to this decision.

Hearing

6. The Tribunal noted at the start of the hearing that none of the Respondents had complied with the Directions by providing a detailed statement of case, to which the Applicant could reply. Ms Lewin had handed in a witness statement and a completed "Scott" schedule to the Tribunal only the day before the hearing. A few minutes before the hearing Ms Lewin handed in a further copy of her statement, with an enlarged schedule. When asked about the late arrival of the statement, Ms Lewin stated that she had had to await the return of Mr Lightwalla from abroad to discuss the matter. The Tribunal explained to her that Mr Ali might not agree to the Tribunal accepting the statement as it was so late. However, after allowing a short adjournment for him to consider the statement, Mr Ali agreed that the statement and schedule did not raise any unexpected matters, and that he was prepared to allow the statement into evidence. The Tribunal also notes that it allowed Mr Ali to add to several items to the Applicant's evidence on the second morning of the hearing, in view of the late statement.

7. Mr Q. Ali (a Director of the Managing Agent) represented the Applicant, accompanied by Mr F. Buchari, the Property Manager. Ms Lewin (Flat 1) represented the Respondents, accompanied by Mr Lightwalla (Flat 2), Ms J. Campbell (now Mrs J. Williams) (Flat 8) and Mr Williams. Mr Lightwalla was replaced by Mr E. Bondzie (Flat 5) on the second day of the hearing.

Applicant's Case

8. Mr Ali recounted the history of this matter. The building was a block of 8 flats built on 2 floors in the 1930s. Hexagon had been appointed managing agents of the block in June 2011, after the Applicant had become dissatisfied with the performance of the previous managing agents. The property was in not in good condition. A survey report from Mr A. U. Rahman of G.H. Surveyors had been obtained in July 2011 which had been copied to the leaseholders. The report noted that a number of major items needed attention, but recommended three phases of work to spread the cost. He listed 8 items for immediate work. These were:
   Complete renewal of the water storage tanks on the roof
   Complete removal of all asbestos materials on the roof
   Renew the structures around the water tanks
   Clearance of overgrown garden areas and complete renewal of existing hard standing areas
   Repairs to render on raised parapets and flat roof repairs
   Re-fix and replace flashing details on flat roof
   Repairs to chimney stacks
   Temporary repairs of fascias, soffits and gutters

9. Acting on that advice, the Applicant had asked Mr Rahman to prepare a specification of works. He had prepared the specification of the roof works in the alternative, the

first option was for repair of the roof covering, and the second option was for replacing the roof covering. His original advice in 2011 was that the roof could be repaired, at an assumed cost of £38,500. Copies of the specification had been obtained by Mr Lightwalla and Mr Bondzie at the time. (Mr Lightwalla who was present at this point confirmed he had received a copy of the specification). A notice of intention for that work was served on the leaseholders following the terms of Section 20 on 13th July 2012. However there had been delay in obtaining sufficient funds from the leaseholders as some refused to pay. Mr Bondzie had also made an application to this Tribunal complaining that the Section 20 procedure had been defective, as he had not been served. The Applicant had accepted this point and the matter had not come to a hearing (apparently in about December 2012).

10. The landlord prepared to restart the Section 20 procedure. Then the Applicant was advised that replacement of the roof covering was now the most appropriate option, particularly in view of correspondence from the local Environmental Health Officer relating to roof leaks above Flat 7. The assumed cost for that work was about £75,000. Again, the cost was such that consultation with the leaseholders under Section 20 was necessary. At about this time, SM Surveyors took over the project management. The necessary notice of intention was served on 16th July 2013. Pursuant to the notice, Mr Bondzie had suggested a contractor, Aspect. Aspect was invited to tender along with 3 other independent contractors, but they refused to tender. In the event only two firms submitted valid tenders, Bishop and Baron Contractors Ltd (£79,908.40) and Be Sure Building and Maintenance Ltd (£131, 839) The notice of estimates was served on 1st November 2013, inviting observations. A notice of reasons for choosing the successful contractors, Bishop and Baron, was served on 9th December 2013.

11. In response to points made by the Respondents, Mr Ali submitted that the Applicant was not in a financial position to start work without full payment of the estimated costs, and referred to the serious consequences for both parties if the contractors were not paid on time against certificates issued by the surveyor. At this point 6 out of 8 leaseholders had paid their contributions. Mr Lightwalla and Mr Bondzie had not paid. The Applicant had conducted a valid Section 20 consultation. He had taken and followed professional advice on the matter. He was not obliged to allow certain Leaseholders to try and find a cheaper contract and manage it themselves. They had produced no supporting evidence. Their preferred contractor had refused to tender. Mr Ali requested a variation of the Lease, as he assumed the Lease only allowed for service charges to be collected in arrears. However, after discussing this last point with the Tribunal at the hearing, he agreed that the Lease provided for advance payment. The works were necessary, reasonable and reasonable in amount.

12. Mr Ali further submitted in answer to questions that the 15% project management fee was high, but reflected the complexity of the work to be done. It covered applications for the various permissions and authorities required. Also SM Surveyors had agreed to delay the payment of their fee until practical completion. The landlord had considered the position of the lessees in that some of the work recommended at the property was to be phased. All monies collected were paid into a client's trust account which would be used to pay the contractors.

Respondent's case

13. Ms Lewin submitted that the Respondents agreed that the works were necessary but the Respondents did not trust the landlord. There had been roof leaks in the property since 2006. The property was in poor condition and the maintenance work they paid for was not being carried out. Bishop and Baron, the successful tenderers, also did the cleaning, but did not provide any of the services, despite complaints. The annual service charge summaries were difficult to follow. The building was deteriorating through neglect. The estimated cost of the work had more than doubled. It was too high. The project supervision fee should only be 2-5%. The Applicant had taken Ms Lewin to court relating to the estimated charges demanded, and had got a court order for her to pay.

14. On specific items of work, there was no itemised cost in the estimate for scaffolding. She wanted an explanation of "Welfare Facilities" in the price. In view of the great differences in pricing major items of work in the quotations of Be Sure and Bishop and Baron it was reasonable to get one or two more estimates to give a more realistic quote and an average cost.

15. Paying in advance was a breach of the Lease. The Tribunal should not allow a variation of the Lease to allow advance payment. However, neither in her statement nor at the hearing did Ms Lewin refer to any specific evidence or clause in the Lease to support her submission on this point.

16. The Applicant had collected 6 out of 8 payments, but no work had been carried out despite the urgency of the work. There was no need to have all the money up front. The builders were paid in tranches. The six who had paid should not pay any more. In fact the Respondents thought they should not have to pay anything. Scaffolding had been put up for 11 months but no work had been done. Hexagon had allowed the property to run down. They did not return calls. The Applicant should start work immediately with the funds already collected. As noted by the Tribunal there were errors in the estimates, as five tanks were allowed for, not just four. They had no confidence that the work would be carried out to a high standard, professionally, within target, or the estimated budget. The Respondents would suffer financial hardship if the application was granted. They wanted the Tribunal to inspect the property.

Decision

17. The Tribunal considered the evidence and submissions. The Tribunal decided that it was common ground that the building was in poor repair. The Landlord's survey made that quite clear in 2011, and the photographs produced by the Respondents at the hearing confirmed the position. It was also common ground that the works were necessary and urgent. Inspection would reveal very little more to the Tribunal.

18. The Respondents had requested the Tribunal to inspect the building to include the roof, gardens and fencing. The Tribunal declined to accede to this request for the following reasons:
    a) The gardens and fencing did not form part of the application;
    b) It had been agreed by the parties that work to the roof and water tanks was necessary;
    c) There was no safe access provided for a roof inspection, which was the main thrust of the Respondents request for an inspection;

d) The layout and complex nature of the roof had been agreed at the hearing by reference to aerial images from 'Google maps' and photographs by the Respondents viewed at the hearing, and
e) It was not considered proportionate having regard to the evidence heard and the agreement of the Respondents as to the necessity of the work proposed.

19. The objecting Respondents emphasised their lack of trust in the Applicant, and particularly Hexagon, pointing to the state of the property. However, none of them had made a Section 27A application for determination of the annual service charges, which would have addressed many issues they raised. This course remains open to them, and also to the Applicant, if the matter remains contentious. However it is not appropriate for these matters to be decided in this application. The Directions related to the Major Works. The Respondents (at least those who were actively discontented) were significantly in breach of those Directions, and if the Applicant had taken a confrontational stance on that issue, the Respondents might well have been unable to present any case at all. Directions are not optional. They are an order of the Tribunal, and the notes to the Directions make clear the likely consequences of breach.

Lease terms

20. The Tribunal considered the Lease provisions for advance payments of service charge, and gave both parties the opportunity to comment on them at the hearing. It appeared that the Applicant had been inclined to agree with the Respondents that there was no provision for payments in advance, beyond a fixed annual figure of £200 per flat, and thus applied for a variation of the Lease (which of course is not appropriate in a Section 27A application). The relevant provisions of the Lease are contained in clause 2(3)(i), which requires the lessee to pay a service charge equal to a one eighth share of the expenses of various items of common interest such repairing and maintaining the main structure of the building including roofs, chimney stack gutters etc., maintaining party walls roads fences sewers drains pipes and similar items, cleaning decorating and lighting the common passageways entrances and accessways in the building, the building insurance, employing managing agents and accountants. Payment of the final service charge is due after a summary of the expenses of such services has been certified by the accountants after the end of each financial year.

21. Of particular interest are sub-clauses 2(3)(i) (c), (d), and (e), which state;

(c) The Certificate shall contain a summary of the Lessor's said expenses and outgoings incurred by the Lessor during the Lessor's financial year to which it relates together with a summary of the relevant details and figures forming the basis of the service charges and other charges hereinbefore covenanted to be paid and the certificate (or a copy thereof duly certified by the person by whom the same was given) shall be conclusive evidence for the purposes hereof of the matters which it purports to certify

(d) The expression "the expenses and outgoings incurred by the Lessor" as herein before used shall be deemed to include not only those expenses outgoings and other

expenditure hereinbefore described which have been actually disbursed incurred or made by the Lessor during the year in question but also so such reasonable part of all such expenses outgoings and other expenditure herein before described which are of a periodically recurring nature (whether by regular or irregular periods) whenever disbursed incurred or made and whether prior to the commencement of the said term or otherwise including a sum or sums of money by way of reasonable provision for anticipated expenditure in respect thereof as the Lessor or its accountants or managing agents (as the case may be) may in their discretion allocate to the year in question as being fair and reasonable in the circumstances and relates to pro rata to the demised premises

(e)The Lessee shall with every half yearly payment of rent reserved here under pay to the Lessor the sum of One hundred pounds in advance and on account of the service charge"

22. Neither party was able to point to any other clause in the Lease which might throw further light on the payment of service charges. The Respondents' submission amounted to nothing more than an assertion that there was no provision for advance payment of service charges (save for the sum payable in sub-clause (e)), without any supporting argument or evidence. The Applicant had apparently not considered these terms of the Lease in any detail. The Lease effectively sets out the contract between the parties. The Tribunal decided that clauses (d) and (e) had to be read and construed in a way which gave commercial effect to the contract. Using their plain natural meanings, sub-clause (d) allows the collection of reasonable anticipated amounts of anticipated expenditure. It was well within the contemplation of the parties to the Lease that major works of repair would be likely within the lease term of ninety nine years. Sub-clause (e) might be considered superfluous, but the Tribunal decided that it allowed the Lessor to collect a minimum sum of £200 per year in advance, not a maximum, as implied by the Respondents' submission. There was no support in the Lease for the Respondents' view that the Applicant should fund the shortfall in the service charge until the end of the financial year.

23. Thus the Tribunal decided that the Lease provided for reasonable payments of service charge in advance, and consequently for payments of estimated amounts for the proposed major works. To find otherwise would almost certainly condemn the parties to a stalemate, where no major repairs were done, because the Applicant landlord could not afford to bridge the funding "gap". The Respondents collectively would have far more to lose than the Applicant in such a situation.

Particular matters in the specification

24. The Tribunal accepted the Applicant's submission that "Welfare Facilities" in the specification related to costs required by health and safety legislation to provide facilities for the major works contractor's staff, such as toilets, shelter etc. These were compulsory in any significant works contract.

25. The Tribunal also decided that the lack of a particular reference to scaffolding was not significant. How contractors summarised their pricing was not vital. On this job, scaffolding will be a legal requirement, due to the nature of the work, and the height at which the work will be done. Part of the Project Manager's duty is to ensure that contractors comply with safety legislation.

26. An additional query came to light at the hearing, i.e. that scaffolding had been erected around the building and then removed without any work being done. Mr Ali agreed that the scaffolding had been erected in anticipation of commencing work, but after the Applicant accepted Mr Bondzie's position on the original Section 20 Notice procedure, it had been removed to await the conclusion of the fresh consultation. He confirmed that the abortive cost would not be passed on to the Respondents.

27. The Tribunal questioned both parties carefully on the project management fee. Mr Ali submitted that from his experience, he would expect such fees to be between 7 and 15%. This fee was at the top end, but the project was complex in relation to the actual cost which was modest. The Surveyor had agreed to charge only after the date of practical completion. The managing agent had confirmed that the 15% fee would include all consents associated with the project. Ms Lewin considered that 2-5% was the appropriate bracket. Neither Ms Lewin nor Mr Bondzie could offer any support for their proposed figure, apart from the fact the landlord's figure seemed very large, and the Respondents would have to pay it.

28. The Tribunal decided to accept Mr Ali's submission that the project management fee was reasonable, which was consistent with the Tribunal's own knowledge and experience of such matters.

Cost of the Works

29. The Respondents urged upon the Tribunal that the costs were too expensive and should be retendered, however they had no specific alternative costing evidence for the work to offer the Tribunal. They suggested that some inconsistencies in pricing between the tenderers supported this view. They noted that one extra tank unit had been specified, but only after the point had been identified by the Tribunal's expert member. (Mr Ali promised to investigate and rectify that item). They were also concerned with the successful tenderer's performance in providing cleaning of the block. The Tribunal noted in the evidence that the successful tenderer had been asking pertinent questions of the Applicant's surveyor prior to tendering. It was satisfied that process had been properly carried out and that there was satisfactory independent professional supervision of the contractor and the works. The Tribunal notes in that connection that the tender analysis was quite acute. The tender consultation process under Section 20 on this occasion had not been challenged by the Respondents, nor could the Tribunal find fault with it. The Applicant had thus done all that was necessary to comply with legislation. There was no good evidence that the process was flawed, or that the successful tenderer's bid was inept. If the Respondents have concerns about another contract, they should bring those concerns to the Tribunal by way of a successful application. The Applicant's expert had made his own pre-estimate and later checked the tender prices. The successful tender was within the reasonable expectations of the surveyor. It was perhaps unfortunate that events had moved on so that the expert had advised a complete replacement of the roof coverings, but the benefit of modern insulation standards and a long guarantee period seemed to compensate for the additional expense. Patch repairs inevitably only have a limited life, even if successful on an old roof. The method of doing the work was a decision for the landlord, and it had been taken with expert advice.

30. While not forming part of this decision, the Tribunal makes the following observations to assist the parties. The managing agent might consider preparing and consulting with the Respondents on a five year maintenance plan. Also, any party can bring a further application if the cost of the major works remains contentious when the final account is certified, or in relation to the annual service charges if those remain in dispute.

Costs - Section 20C and Rule 13

31. The Respondent made a Section 20C Application. The Applicant also purported to make a Section 20C Application, but this was in error. Section 20C must be raised by a lessee liable to pay the service charge, not the landlord.

32. The Respondents submitted that the Applicant's costs of the application should be limited, but later conceded that it was appropriate for the cost to fall on the service charge for payment by all the lessees. For the Applicant, Mr Ali stated that as a gesture of goodwill on the part of the landlord, there would be no charge for attending at the hearing or associated with this matter. The costs would be nil. The Tribunal thus made an order under Section 20C limiting the landlords costs in connection with this matter to NIL, in recognition of the landlord's concession.

33. The Applicant made an application for reimbursement of its fees paid to the Tribunal under Rule 13(2) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013. The Respondents opposed the application.

34. The Tribunal noted that without the application the parties appeared to have reached a stalemate. It was appropriate for the Applicant to make the application. The application has also resulted in settling an important issue in the Lease relating to advance payment of service charges. The Applicant and its advisers had conducted themselves well during the course of the application, especially when the Respondents had been in breach of Directions. The Tribunal decided that all eight Respondents should reimburse the Applicant's fees paid to the Tribunal in the proportions they were liable to pay the service charge, such sums to be payable within 21 days of the date of this decision.

Signed: Lancelot Robson
Mr Lancelot W. G. Robson
Tribunal Judge

Dated: 12th June 2014

Appendix

Landlord & Tenant Act 1985

Section 18

(1) In the following provisions of this Act "service charge" means an amount payable by a Tenant of a dwelling as part of or in addition to the rent -
  (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the Landlord's costs of management, and
  (b) the whole or part of which varies or may vary according to the relevant costs.

(2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the Landlord, or a superior Landlord, in connection with the matters for which the service charge is payable.

(3) For this purpose -
  (a) "costs" includes overheads, and
  (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

Section 19

(1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
  (a) only to the extent that they are reasonably incurred, and
  (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;

and the amount payable shall be limited accordingly.

(2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise.

Section 20

(1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—

(a)complied with in relation to the works or agreement, or

(b)dispensed with in relation to the works or agreement by (or on appeal from) a leasehold valuation tribunal.

(2) In this section "relevant contribution", in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.

(3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.

(4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—

(a) if relevant costs incurred under the agreement exceed an appropriate amount, or

(b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.

(5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—

(a) an amount prescribed by, or determined in accordance with, the regulations, and

(b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.

(6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.

(7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Section 27A

(1) An application may be made to a Leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
   (a) the person by whom it is payable,
   (b) the person to whom it is payable,
   (c) the amount which is payable,
   (d) the date at or by which it is payable, and

(e) the manner in which it is payable.

(2) Subsection (1) applies whether or not any payment has been made.

(3) An application may also be made to a Leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
(a) the person by whom it would be payable,
(b) the person to whom it would be payable,
(c) the amount which would be payable,
(d) the date at or by which it would be payable, and
(e) the manner in which it would be payable.

(4) No application under subsection (1) or (3) may be made in respect of a matter which -
(a) has been agreed or admitted by the Tenant,
(b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the Tenant is a party,
(c) has been the subject of determination by a court, or
(d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.

(5) But the Tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

Section 20C

(1) A tenant may make an application for an order that all or any of the costs incurred, or to be incurred, by the landlord in connection with proceedings before a court, residential property tribunal or leasehold valuation tribunal, or the Upper Tribunal, or in connection with arbitration proceedings, are not to be regarded as relevant costs to be taken into account in determining the amount of any service charge payable by the tenant or any other person or persons specified in the application.

(2) The application shall be made—
(a) in the case of court proceedings, to the court before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to a county court;
(aa) in the case of proceedings before a residential property tribunal, to a leasehold valuation tribunal;
(b) in the case of proceedings before a leasehold valuation tribunal, to the tribunal before which the proceedings are taking place or, if the application is made after the proceedings are concluded, to any leasehold valuation tribunal;
(c) in the case of proceedings before the Upper Tribunal, to the tribunal;

(d) in the case of arbitration proceedings, to the arbitral tribunal or, if the application is made after the proceedings are concluded, to a county court.

(3) The court or tribunal to which the application is made may make such order on the application as it considers just and equitable in the circumstances.

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

Rules 13(1) - (3)

13.-(1) The Tribunal may make an order in respect of costs only-
(a) under Section 29(4) of the 2007 Act (wasted costs) and the costs incurred in applying for such costs;
(b) if a person has acted unreasonably in bringing, defending, or conducting proceedings in-
(i) an agricultural land and drainage case,
(ii) a residential property case, or
(iii) a leasehold case; or
(c) in a land registration case.

(2) The Tribunal may make an order requiring a party to reimburse to any other party the whole or part of the amount of any fee paid by the other party which has not been remitted by the Lord Chancellor.

(3) The Tribunal may make an order under this rule on application or on its own initiative.

(4) – (9)...
