



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

Case Reference : **MAN/00BN/LAC/2014/0010**

Property : **23 Barrow Hill Road, Manchester M8
8DB**

Applicant : **Mrs Oluwakemi Feyisitan**

Representative : **N/A**

Respondent : **E&J GR Properties**

Representative : **SLC Solicitors**

Type of Application : **Application for costs**

Tribunal Members : **Judge J Holbrook
Judge L Bennett**

**Date and venue of
Hearing** : **Determined without a hearing**

Date of Decision : **1 December 2014**

DECISION

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The application is refused.

REASONS

Background

1. On 21 July 2014 the Applicant applied to the Tribunal for an order as to the payability and/or reasonableness of administration charges which the Respondent had demanded from her. The administration charges in question amounted to £838.78 and had been imposed following allegedly late payment of rent in respect of the Property.
2. In compliance with Directions issued by the Tribunal, the Applicant submitted a statement of case on 18 July 2014 together with a bundle of supporting evidence.
3. On 21 August 2014 the Respondent's solicitors wrote to the Applicant to inform her that the Respondent had made a "commercial decision" to waive the disputed charges. The letter was copied to the Tribunal.
4. The Applicant confirmed that she would withdraw her administration charges application, but that she wished the Respondent to pay the cost of making that application: namely, the tribunal application fee of £90.00.
5. The parties subsequently made written representations on the question of costs, and the Tribunal indicated that it proposed to determine the matter on the basis of those submissions, without holding an oral hearing.

Law

6. The Tribunal's powers to make orders for costs are governed by rule 13 of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013.
7. The general principle (set out in rule 13(1)(b)) is that the Tribunal may only make an order in respect of costs if a person has acted unreasonably in bringing, defending or conducting proceedings before the Tribunal.
8. However, in relation to tribunal application and hearing fees, rule 13(2) gives the Tribunal a broad discretion to:

... 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.

Conclusions

9. There can be no suggestion that the Respondent has acted unreasonably in defending the proceeding before the Tribunal – it did not seek to oppose the substantive administration charges application. Notably, however, neither did the Respondent characterise its action as an admission that the administration charges in question were imposed improperly, but rather it has portrayed the decision as a commercial decision intended to save costs overall.
10. Whilst the Tribunal's discretion to order the reimbursement of the application fee does not require a finding of unreasonable conduct on the part of the paying party, the discretion will generally be exercised only in favour of a party who has "succeeded" in the proceedings before the Tribunal. It is difficult to exercise the discretion on this basis where the parties have effectively settled their dispute.
11. In the present case, there has been no substantive consideration by the Tribunal of the underlying merits of the Applicant's challenge to the disputed administration charges – the Respondent's stance has rendered this unnecessary. Nevertheless, the Applicant now argues that we should order reimbursement of the application fee based on the assertion that the bringing of tribunal proceedings was caused solely by the Respondent's deliberate or unreasonable behaviour in administering the process of demanding ground rent.
12. The Respondent disputes that it acted in any way improperly. Moreover, given that the Tribunal is no longer required to consider the propriety of the underlying administration charges, it is not appropriate for the Tribunal to rule on whether either party acted unreasonably before the proceedings were commenced. We therefore decline to exercise our discretion to order reimbursement of the tribunal application fee.