



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

Case Reference : **LON/00AY/LSC/2015/0499**

Property : **44 Gleneldon Road, London SW16
2BD**

Applicant : **Mr D Phillips**

Respondent : **London Borough of Lambeth**

Type of Application : **Liability to pay service charges**

Tribunal Judge : **F. Dickie**

Date and venue of hearing : **27 January 2016, 10 Alfred Place,
London WC1E 7LR**

Date of Order : **27 January 2016**

DECISION

Summary of Tribunal's Decision

The whole application is struck out under rule 9(3)(e) of The Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 ("The Rules").

The application for costs under Rule 13(1) of the Rules is dismissed.

Background

1. A hearing of the Respondent's application to strike out the application took place attended by Mr Phillips in person and Mr R Gheewal for the Respondent. The tribunal had issued notice to the Applicant dated 6 January 2016 that it intended to strike out the application.
2. There is a long history to this matter. County Court proceedings issued by Mr Phillips against the Respondent in relation to an alleged breach of covenant under the lease were settled by way of a Tomlin Order made on 5 July 2013. That order required the Respondent to carry out specified Works, though for various reasons those Works have not yet begun.
3. A s.20 consultation notice was issued to Mr Phillips on 24 January 2014 which indicated the costs of the Works. In the application to strike out the Respondent said that, owing to the passage of time since its issue, this s.20 notice had been withdrawn and would be reissued on receipt of fresh tenders.
4. In the present application, Mr Phillips challenges service charges for the years 2010 – 2014 inclusive. The grounds of his application however only relate to the cost of the Works. In none of these years has he been charged estimated or actual service charges for the Works.
5. Mr Phillips made an application to this tribunal under reference LON/00AY/LSC/2015/0078 for determination of service charges payable for the years 2013-2015. His only ground for disputing these service charges was that he should not pay towards costs related to the damage caused by the tree. That application was struck out on 12 March 2015 (with no order for costs) on the ground that it had no reasonable prospect of success.
6. The present application is effectively a restatement of application reference LON/00AY/LSC/2015/0078 (though the years in dispute overlap but are not the same).

Decision and Reasons

7. The costs of the Works are at present unspecified, they form the only challenge to the service charge, and do not fall for payment in any of the service charge years that form the subject of this application. The application is therefore misconceived. It has no reasonable prospect of success. In disputing any liability to contribute to the cost of the Works as set out in the Tomlin Order, Mr Phillips is seeking to re-litigate

matters already determined or agreed (and in relation to which this tribunal therefore has no jurisdiction). The application is therefore struck out.

8. The Respondent produced no evidence to show when or if Mr Phillips was notified that the s.20 consultation notice issued on 24 January 2014 had been withdrawn. Mr Gheewal considered it was likely to have been late last year when it was abandoned. Mr Phillips said he had not been aware that it had. In the circumstances I am not satisfied that the grounds on which I may make an order for costs under Rule 13 of the Rules are made out, and in any event I would not exercise my discretion to make one.

Name: F. Dickie

Date: 27 January 2016