



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

Case Reference : LON/00AL/LAC/2015/0022

Property : Top Floor Flat, 39 Blackheath Road,
London SE10 8PE

Applicant : **Stuart John Wilson**

Respondents : **Ian Berrido**
Susan Berrido
Sam Berrido
Polly Berrido

Type of Application : **Administration charges**

Tribunal : **Judge Nicol**

Date of Decision : **23rd November 2015**

DECISION

Decision of the Tribunal

The application is struck out under rule 9(3)(a) and (b) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

Reasons for Decision

1. On 7th September 2015 the Tribunal received the Applicant's application for a determination as to liability to pay an administration charge under Schedule 11 to the Commonhold and Leasehold Reform Act 2002. By letter dated 21st September 2015 the Respondent freeholders requested that the application be struck out on the basis that the sums being challenged had already been dealt with in previous Tribunal decisions.

2. A case management conference was held on 1st October 2015 before Judge Vance. For the reasons set out in his Directions order, he was not sure whether the Respondents were right or not and so gave comprehensive directions for a determination on that issue.
3. The first direction was for the Applicant to file and serve by 19th October 2015 a statement of his case setting out precisely what he disputes and why, and supported by relevant documentation. He has not complied.
4. Instead, by letter dated 19th November 2015 the Applicant set out the reasons why he was “now most frustrated with the events orchestrated by the [Tribunal]”.
5. The first point he makes is that, “Upon making my application I clearly requested a hearing and not a paper determination.” The Tribunal’s powers to determine matters without a hearing are set out in rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013:

Decision with or without a hearing

31.—(1) Subject to the remainder of this rule, the Tribunal must hold a hearing before making a decision which disposes of proceedings.

(2) The Tribunal need not hold a hearing if consent to proceeding without a hearing has been given by—

- (a) each party; and
- (b) each other person who has been sent a notification as being entitled, invited or permitted to attend the hearing.

(3) For the purposes of paragraph (2) a party or other person shall be taken to have consented if—

- (a) the Tribunal has given that party or other person not less than 28 days’ notice of its intention to dispose of the proceedings without a hearing, and
- (b) no objection has been received from that party or other person within that time,

except that the Tribunal may regard such a party or other person as having consented upon shorter notice in urgent or exceptional circumstances.

(4) The Tribunal may in any event dispose of proceedings without a hearing under rule 9 (striking out a party’s case) or under rule 39(4) (implementation of court order in land registration cases).

6. The Applicant has not consented to a paper determination and so, for the determination of his substantive application, of course he would have been entitled to a hearing. However, there is an exception to the general rule in rule 31(4), as Judge Vance previously pointed out. His

directions were for the purpose of reaching a determination on the Respondents' strike-out request in accordance with rule 9 (set out in Judge Vance's order). A strike-out request may be determined without a hearing and Judge Vance so ordered.

7. The Applicant makes a further point that, "I specifically requested that the respondents were told to strictly adhere to the directions – this was not the case, once again they allowed to do exactly what they wanted." The Tribunal finds this allegation incomprehensible. The first direction was directed at the Applicant, not the Respondents.
8. Further, despite the Applicant's complete failure to comply with the directions, the Respondents have submitted a statement of their own case to try to respond to what they believe is the case against them.
9. It is important that parties comply with the Tribunal's directions. They are designed to ensure that the Tribunal has the information it needs to do justice to the positions of both parties. It is impractical, if not impossible, for one party or the Tribunal to understand what they are dealing with and what they need to address if the other party fails to produce a statement of case as directed. It is clear that the Applicant knows very well how important compliance is.
10. Even making allowances for the Applicant's frustrations as to the procedure used by the Tribunal and the fact that he is not legally-represented, the Tribunal cannot see any good reason for his failure to comply with the directions. He was well aware of the potential consequences of failure to comply because, not only did Judge Vance's order contain the usual warning, in bold, at paragraph (b) of the Notes at the end, it also contained the relevant text from rule 9.
11. In the circumstances, the Tribunal has no choice but to strike out the application under rule 9(3)(a) and (b) because the Applicant has failed to comply with a direction in an order which stated that failure to comply would lead to striking out and, further or alternatively, he has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly or justly.

Name: NK Nicol

Date: 23rd November 2015