



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

Case Reference	:	LON/00AS/LUS/2013/0004 LON/00AS/LAM/2013/0025
Property	:	Various flats, 7-21 Norfolk Road, London UB8 1BL
Applicant	:	Rijac Properties Limited (freeholder)
Respondents	:	7-21 Norfolk Road RTM Company Limited
Representative	:	Mr A Pettie Mr C Sawden
Type of Application	:	Appointment of a manager under Section 24 of the LTA 1987 and Application for determination of the amount of any service charges to be paid to the RTM company under section 94(3) CLARA 2002
Tribunal Members	:	Ms M W Daley Mr Roberts Dip Arch RIBA Mr Clabburn
Date and venue of Hearing	:	at 10 Alfred Place, London WC1E 7LR
Date of Decision	:	30 January 2015

DECISION

Application under s.20C and refund of fees

Decisions of the tribunal

The application

1. At the hearing On 5 September 2014 the Tribunal determined that:-
2. **The tribunal determine that the Application for the appointment of a manager is dismissed.**
3. **The Tribunal determines that pursuant to a consent order granted by the Tribunal on 14 January 2014, the sum agreed as payable as uncommitted Service charges in respect of contributions to the reserve fund by the leaseholders of flats 15, 17 and 21 is £3500.00**
4. **The Tribunal grants an order for costs against the Applicant under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber Rules 2013.**
5. **The Tribunal determine that the RTM Company shall serve a schedule of costs within 14 days. Rijac Properties Limited shall serve a reply setting out the cost agreed and any submission on the sum claimed 14 days thereafter.**
6. **The sum payable under rule 13 of the procedural rules to be determined by the Tribunal.**
7. On 9 September 2014 the Respondent provided the Tribunal with a schedule in the sum of £1801.34.
8. On 11 October 2014 the Respondent provided a reply in which the Respondent stated:- *“ We feel that we have been intentionally punished for not being at the hearing that day despite making it completely clear in writing and in good time that we would be unavailable because we were out of the country.”*
1. The Tribunal in its determination found that:- On 14 January 2014 both matters were listed for hearing. At the hearing it was agreed by consent that the proceedings be stayed for a period of six months with liberty to apply to the Tribunal during that period. On 5.6.2014 the Applicant applied to have the matters determined. The Respondent's by letter dated 19 July 2014 indicated their agreement to the matter being determined by the Tribunal

2. The matter was set down for an oral hearing to be considered on 5 September 2014.
3. Prior to the hearing, the Applicant by email sent on 16 July 2014 requested that the hearing be vacated. This request was refused by the Tribunal. Following the Tribunal's refusal to postpone the hearing, the Applicant wrote to the Tribunal on 25 August 2014 in the following terms: "...Please note we no longer wish to pursue this matter at the present time and wish to vacate the hearing...".
4. The Tribunal in paragraph 11 of its determination stated that -: *"The Tribunal however noted the history of this matter; that is that the Applicant had made an application for the appointment of a manager. Following this application the Applicant had not taken steps to put forward a proposed manager, and had agreed to the matter being stayed on terms, and had subsequent to the matter being stayed, asked for the proceedings to be reinstated. No proposed manager had been put forward and very late in the process the Applicant had sought to vacate the hearing."*
5. The Tribunal therefore considered that it was appropriate upon the application of Mr Pettie and Mr Sawden to grant an application under rule 13 of the Tribunal procedural rules together with directions.
6. Mr Shields in reply to the RTM Company's schedule of cost, stated that he considered that the Respondent was being punished for their inability to attend the hearing. He also stated that the charges claimed by the RTM at the rate of £85.00 per hour was optimistically high. He also stated that the RTM have failed to comply with part of the original decision. The Tribunal noted that no further details were given concerning this failure.
7. The RTM Company in its claim for cost set out the matters relied upon by them in support of their claim that included amongst other matters, the fact that the respondent did not comply with the consent order dated 14 January 2014 and the failure of Rijac to give written notice to the RTM Company that they wished to withdraw their application. The Applicant also stated that the RTM directors were professional people who had given their time to running the RTM without a fee or reward. The Applicant cited that the Respondent had acted, vexatiously and unreasonably and accordingly considered that it was reasonable for and order for cost to be made.

The Decision of the Tribunal and Reasons for the tribunal's decision

8. The Tribunal determine that it is reasonable to make an order to be made in the following sum
9. (i) Photocopying in the sum of £52.80 (ii) Stationery £6.00 (iii) Postage in the sum of £11.00
10. Fares to the hearing £31.54
11. The Tribunal consider that the appropriate hourly rate in the absence of information confirming an actual loss or earnings is £50.00 per hour. The total time allowed for preparation is £600.00 and £400.00 for the attendance at the hearing.
12. The total sum payable by the Applicant under rule 13 on account of the Respondent (RTM's) costs is **£1101.34**

Name: M W Daley

Date: 30
January
2015