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

Case Reference : **LON/00AE/LSC/2015/0036**

Property : **Flat 5, 10 Elm Road, Wembley HA9
7JR**

Applicant : **Mr Massimiliano Giosue Carducci**

Representative : **Mr M Carducci In Person**

Respondent : **Inquilab Housing Association
Limited**

Representative : **Mr Jon Holbrook Counsel**

Type of Application : **Section 27A Landlord and Tenant
Act 1985
Determination of service charges
payable**

Tribunal Members : **Mr S Brilliant, Mr M Cairns and Mr
N Miller**

**Date and venue of
hearing** : **23 July 2015
10 Alfred Place, London WC1E 7LR**

Date of this Decision : **29 JULY 2016**

DECISION

UPON reading the letter from the respondent's solicitors dated 10 February 2016 and the letter from the applicant dated 7 April 2016

AND of its own motion

IT IS ORDERED THAT these proceedings are struck out.

Reasons

1. Directions for the conduct of these proceedings were given on 19 March 2015 ("the original directions"). Paragraph 21 of the original directions directed the applicant to provide hearing files by 10 July 2015.
2. The hearing of these proceedings was listed for 23 July 2015. At the hearing the Tribunal determined that an adjournment was necessary partly because the applicant was unable to explain or present his case with a sufficient degree of clarity and the hearing file did not contain the required documents.
3. Accordingly the Tribunal issued directions dated 23 July 2015, as amended on 18 September 2015 and further amended on 19 January 2016 ("the supplementary directions").
4. These proceedings have been automatically struck out under rule 9(1) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("the Rules") as the applicant failed to comply with paragraph 5 of the supplementary directions.
5. Paragraph 5 of the supplementary directions provided that:

Unless the applicant by **5pm Wednesday 27 January 2016** delivers:

- (1) one copy of the hearing file to the respondent (free of charge);
and
- (2) four copies to the tribunal's office.

these proceedings will automatically be struck out pursuant to rule 9(1) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

6. Although the respondent delivered the correct number of files on Wednesday 27 January 2016, they are not hearing files within the meaning of paragraphs 3 and 4 of the supplementary directions. They failed to include critical documents such as:
 - (a) The original directions and the supplementary directions dated 18 September 2015.

- (b) The applicant's statement of case dated 31 July 2015.
 - (c) The applicant's second undated statement of case received by the applicant's solicitors on 15 December 2015.
 - (d) The respondent's statement of case.
 - (e) The applicant's letter dated 22 April 2015.
 - (f) The respondent's letter dated 8 June 2015.
7. The case was therefore not ready for hearing on or after Wednesday 3 February 2016 as paragraph 7 of the supplementary directions envisaged.
 8. The Tribunal has no discretion but to make the order set out above. Rule 9(1) of the Rules is quite clear in this respect. The respondent's solicitors are wrong in their letter dated 10 February 2016 when they say that they are entitled to seek to strike out the proceedings because of the failure to provide a valid hearing file. The proceedings are automatically struck out.
 9. In any event, even if there were a discretion, the reasons put forward for not striking out and having a hearing, namely that other leaseholders might bring proceedings, are not to the point. If other proceedings are brought they will need to be properly presented and comprehensible which these proceedings are not.
 10. There is no provision in the Rules for the Tribunal to give the parties an opportunity to make representations before making this order, and it has not done so. The applicant has a right to apply for the proceedings to be reinstated within 28 days after notification of this order has been sent out: see Rules 9(5) and (6) of the Rules.

Simon Brilliant
29 JULY 2016