



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

**Case Reference** : LON/00AX/OLR/2017/0554

**Property** : Flat 1, 17 Uxbridge Road, Kingston-upon-Thames, Surrey KT1 2LH

**Applicant** : Alison Barsby

**Representative** : Atkins & Co

**Respondent** : Ravinder Kumar Sharma

**Representative** : Morrisons

**Type of Application** : A new lease claim

**Tribunal judge** : Angus Andrew

**Date of directions** : 12 May 2017

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**DECISION**

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## DECISION

For the following reason and pursuant to rules 9 (2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the whole of these proceedings are struck out.

## REASONS

Under section 48(2) of the Leasehold Reform, Housing and Urban Development Act 1993 any application to this tribunal must be made within 6 months of the date on which the counter-notice was given to the tenant. The counter-notice is dated 4 July 2016. The application was received by the tribunal on 13 April 2017: that is more than 9 months after the date of the counter-notice. By letter of 19 April 2017 the applicant was invited either to withdraw the application or explain why the tribunal has jurisdiction. The letter warned the applicant that in the absence of a satisfactory response the application might be struck out. No response was received and it is reasonable to conclude that the application was indeed made more than 6 months after the counter-notice was given and that consequently the tribunal can have no jurisdiction to accept it.

**Name:** Angus Andrew

**Date:** 12 May 2017

## Appendix of relevant legislation

### The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013

#### **Striking out a party's case**

9.—(1) The proceedings or case, or the appropriate part of them, will automatically be struck out if the applicant has failed to comply with a direction that stated that failure by the applicant to comply with the direction by a stated date would lead to the striking out of the proceedings or that part of them.

(2) The Tribunal must strike out the whole or a part of the proceedings or case if the Tribunal—

- (a) does not have jurisdiction in relation to the proceedings or case or that part of them; and
- (b) does not exercise any power under rule 6(3)(n)(i) (transfer to another court or tribunal) in relation to the proceedings or case or that part of them.

(3) The Tribunal may strike out the whole or a part of the proceedings or case if—

- (a) the applicant has failed to comply with a direction which stated that failure by the applicant to comply with the direction could lead to the striking out of the proceedings or case or that part of it;
- (b) the applicant has failed to co-operate with the Tribunal such that the Tribunal cannot deal with the proceedings fairly and justly;
- (c) the proceedings or case are between the same parties and arise out of facts which are similar or substantially the same as those contained in a proceedings or case which has been decided by the Tribunal;
- (d) the Tribunal considers the proceedings or case (or a part of them), or the manner in which they are being conducted, to be frivolous or vexatious or otherwise an abuse of the process of the Tribunal; or
- (e) the Tribunal considers there is no reasonable prospect of the applicant's proceedings or case, or part of it, succeeding.

(4) The Tribunal may not strike out the whole or a part of the proceedings or case under paragraph (2) or paragraph (3)(b) to (e) without first giving the parties an opportunity to make representations in relation to the proposed striking out.

(5) If the proceedings or case, or part of them, have been struck out under paragraph (1) or (3)(a), the applicant may apply for the proceedings or case, or part of it, to be reinstated.

(6) An application under paragraph (5) must be made in writing and received by the Tribunal within 28 days after the date on which the Tribunal sent notification of the striking out to that party.

(7) This rule applies to a respondent as it applies to an applicant except that—  
    (a) a reference to the striking out of the proceedings or case or part of them is to be read as a reference to the barring of the respondent from taking further part in the proceedings or part of them; and  
    (b) a reference to an application for the reinstatement of proceedings or case or part of them which have been struck out is to be read as a reference to an application for the lifting of the bar on the respondent from taking further part in the proceedings, or part of them.

(8) If a respondent has been barred from taking further part in proceedings under this rule and that bar has not been lifted, the Tribunal need not consider any response or other submission made by that respondent, and may summarily determine any or all issues against that respondent.