



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

**Case Reference** : **BIR/00FK/LIS/2019/0053  
BIR/00FK/LLD/2019/0013  
BIR/00FK/LLC/2019/0014**

**Court Reference** : **F9QZ34T3  
(County Court at Derby)**

**Property** : **1 Bramble House, 100 Whitaker Road,  
Derby DE23 6AP**

**Applicant/  
Claimant** : **Bramble House (Derby)  
Management Company Limited**

**Respondent/  
Defendant** : **Mr Richard Finnegan**

**Application** : **Service Charges  
on Transfer from the County Court  
at Derby by Order of  
Deputy District Judge Davies**

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**DECISION**

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## **Facts**

On 3<sup>rd</sup> December 2019 I directed that “the Respondent must prepare a Statement of Case setting out all matters of fact and law relied upon. The Respondent must exhibit a paginated bundle of all documents relied upon.”

I have now considered the Respondent’s Statement which runs to 5 brief paragraphs notwithstanding a request for an extension of time “to collect the associated files from my accountant” and reference to “checks being made against the applicant’s costs”.

The Respondent’s case is: “At present, I consider that these costs are excessive, resulting in a higher than necessary apportionment of costs being set against my flat”.

Clause 1.11 of the Lease dated 19<sup>th</sup> March 2007 and made between Castlegate 391 Limited (1) Bramble House (Derby) Management Company Limited (2) and Richard Finnegan and Joanne Melanie Finnegan (3) provides that “the Lessee’s Proportion” means “1/6<sup>th</sup> of the Maintenance Expenses”. The Tribunal has no jurisdiction to alter that fixed proportion.

The Applicant has produced a Statement of Case and Bundle running to 100 pages. The Bundle contains abbreviated accounts for all years together with expenditure schedule and supporting invoices.

Despite being directed to set out “all matters of fact and law relied upon” the Respondent has failed to advance any challenge whatsoever as to the payability and reasonableness of a single item of service charge expenditure.

On 19<sup>th</sup> February 2020 I issued Directions in the following terms:

*“Under Rules 9(3)(e), 9(7)(a) and 9(8) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the Tribunal considers that the Respondent’s case has no reasonable prospects of succeeding.*

*The Tribunal proposes to bar the Respondent from taking further part in proceedings and to summarily determine the claim in the sum of £1310 together with costs and interest against him.*

*Under Rule 9(4) the Respondent is given the opportunity to make representations in relation to the proposed barring and summary determination. Any representations must be made in writing, copied to the Applicant and be received by the Tribunal no later than 4 p.m. on 5<sup>th</sup> March 2020.”*

No representations have been received from the Respondent.

## Decision

1. The Respondent's case has no reasonable prospects of succeeding and accordingly under Rule 9 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 the Respondent is barred from taking further part in these proceedings.
2. I summarily determine that the sum of £1310 together with costs and interest is payable by the Respondent to the Applicant.
3. No Orders are made under Section 20C of the 1985 Act or under Paragraph 5A of Schedule 11 to the 2002 Act.
4. Under section 176A(3) of the Commonhold and Leasehold Reform Act 2002 I will, within the next 28 days, sitting as a Judge of the County Court give effect to my determination in an Order of the County Court.
5. The hearing fixed for 9<sup>th</sup> April 2020 is vacated.

D Jackson  
Judge of the First-tier Tribunal  
6<sup>th</sup> March 2020

Either party may appeal this decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends this written Decision to the party seeking permission.