UPPER TRIBUNAL (LANDS CHAMBER)

[2023] UKUT 134 (LC)

UTLC No: LC-2022-415

Royal Courts of Justice,
Strand, London WCA

15 June 2023

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

APPEAL AGAINST A DECISION OF THE FIRST-TIER TRIBUNAL
(PROPERTY CHAMBER)

HOUSING – RENT REPAYMENT ORDERS – evidence of landlord's financial circumstances not taken into account by FTT – exemption – s.95(1), Housing Act 2004; s.44, Housing and Planning Act 2016 – appeal allowed and sum to be repaid redetermined

BETWEEN

MISS RENEE DAFF

Appellant

-and-

ARIS GYALUI (1)
ADRIEL AIACH-KOHEN (2)

Respondents

Re: Flat 19, Tannery House,
6 Deal Street,
London E1

Martin Rodger KC, Deputy Chamber President

6 June 2023

Faisel Sadiq, instructed by Advocate, acting *pro bono*, for the appellant
Cameron Neilson, of Justice for Tenants, for the respondents

The following cases are referred to in this decision:

Acheampong v Roman [2022] UKUT 239 (LC)

Aytan v More [2022] UKUT 27 (LC)

Hallett v Parker [2022] UKUT 165 (LC)

Regent Management Limited v Jones [2012] UKUT 369 (LC)

Introduction

1. By a decision dated 1 March 2022 the First-tier Tribunal (Property Chamber) (the FTT) made a rent repayment order under section 43 of the Housing and Planning Act 2016 (the 2016 Act) against the appellant, Renee Daff, requiring her to repay £22,230 to the respondents, her former tenants. The rent repayment was ordered because the flat which she had let to them was in an area of selective licensing for the purposes of Part 3 of the Housing Act 2004 (the 2004 Act) and she had not had a licence during the currency of the tenancy.

2. Ms Daff was granted permission to appeal by this Tribunal, and in the course of the hearing I indicated to the parties that I would allow the appeal. With their consent I proceeded to hear further evidence from Ms Daff and submissions from both parties to enable me to redetermine the amount of the order. These are my reasons for setting aside the FTT's decision and substituting a rent repayment order in the total sum of £2,000.

3. At the hearing of the appeal Ms Daff was represented by Mr Faisel Sadiq, acting *pro bono* through Advocate (formerly the Bar Pro Bono Unit). The respondents were represented by Mr Cameron Neilson of the group Justice for Tenants. The Tribunal is very grateful to them both for their assistance.

Background

4. The rent repayment order was made in respect of 19 Tannery House, a flat in Tower Hamlets. The flat has one-bedroom with a mezzanine above the living area providing an additional bed space.

5. Ms Daff purchased the flat in 2009 intending to live in it as her home. Unfortunately she became seriously ill and was unable to work and in 2014 she returned to her native Australia. In her absence she let the flat through a letting agency.

6. In 2016 the local housing authority, the London Borough of Tower Hamlets, introduced a selective licensing scheme under Part 3 of the 2004 Act. The scheme applied to Ms Daff's flat, and in the language of the 2004 Act it became a "Part 3 house" (section 85(5), 2004 Act). Ms Daff, in Australia, was unaware of that designation and its significance, and neither she nor her letting agent applied for a licence.

7. Ms Daff returned to London in 2017 and moved back into the flat. On 23 September 2018 she granted a tenancy for a term of 9 months to the respondents, who were both students, before again returning to Australia to live with her parents. She was still unaware of the licensing scheme and did not apply for a licence before letting to the respondents.

8. Ms Daff now acknowledges that by having control of a dwelling which was required to be licensed under Part 3 of the 2004 Act but which was not so licensed she committed an offence under section 95(1) of the Act.

9. The offence of being in control of an unlicensed Part 3 house, contrary to section 95(1), is one of seven offences identified in section 40(3), 2016 Act in respect of which the First-tier Tribunal may make a rent repayment order.

10. When the tenancy expired in June 2019 the respondents moved out and Ms Daff returned to live in the flat. Eleven months later the respondents applied to the FTT for a rent repayment order. Shortly after being given notice of that application Ms Daff applied to Tower Hamlets for a licence but was informed, after explaining that the flat was her home, that is had been "exempted" from the selective licencing scheme.

The FTT's decision

11. The FTT determined the application after a hearing attended by Ms Daff remotely from her home in Australia. She explained that she had been unaware of the requirement to obtain a licence, but the FTT did not accept that was a reasonable excuse because it found that she had received emails from the National Landlords' Association about relevant changes in the law and should have checked whether these affected her letting. That conclusion was not challenged by Ms Daff in her appeal.

12. Ms Daff also informed the FTT that she had been advised by Tower Hamlets that her property was exempt from the licensing scheme because it was her residential address from time to time. She asked that this exemption be treated as operating retrospectively. The FTT refused that request, pointing out that there was no provision in the 2004 Act for retrospective exemption from a licensing requirement.

13. As well as the flat at Tannery House in which she lives and which had been let to the respondents, Ms Daff told the FTT that she jointly owns another flat in the same block, with a cousin, as well as a third flat in Greenwich. She also owns a flat in Australia.

14. The FTT's decision does not include any further information about these other flats, such as whether they were mortgaged, or what net income Ms Daff derives from them, and it appears not to have asked her any questions about her financial circumstances.

15. When it came to decide the quantum of the rent repayment order, the FTT said "the financial circumstances of the respondent are unknown because she made no financial disclosure." It described her as "a professional landlord who failed to obtain a licence for approximately a 9-month period" and who "had no reasonable explanation or excuse for not obtaining a licence". Having made those findings it set the rent repayment at around 80% of the total rent paid by the respondents under their tenancy which produced a figure of £17,784 to be divided between them in proportion to their respective rent contributions.

The appeal

16. Ms Daff was granted permission to appeal on two grounds, namely:

    (1) That the FTT may have failed to take account of she had provided concerning her financial circumstances.

(2) That without an explanation of the basis on which exemption had been allowed it could not be known whether Ms Daff had been entitled to it while the flat was let, and it was therefore possible that the FTT had taken too narrow an approach to the relevance of the exemption.

Ground 1: the appellant's financial circumstances

17. Section 44 of the 2016 Act deals with the amount of a rent repayment order to be made in favour of a tenant. For the offence of being in control of an unlicensed Part 3 house, a landlord may not be required to repay more than the rent paid for up to 12 months while the offence was being committed. The only other guidance provided by the statute on the factors relevant to the determination of the amount of rent to be repaid is found in section 44(4) which provides:

> "In determining the amount the tribunal must, in particular, take into account –
>
> (a) the conduct of the landlord and the tenant,
>
> (b) the financial circumstances of the landlord, and
>
> (c) whether the landlord has at any time been convicted of an offence to which this Chapter applies."

18. The first ground of appeal is simply that, contrary to the requirement of section 44(4)(b), the FTT failed to take Ms Daff's financial circumstances into account when it determined the amount of the rent repayment order.

19. The FTT had details (albeit not comprehensive details) of Ms Daff's financial circumstances. She had provided details of her current expenditure and outgoings including personal expenditure and expenditure associated with her home. This totalled £24,409 a year including mortgage repayments of £4,800. The schedule contained details of her living expenses including £380 per month on medicines and medical treatment. Ms Daff had provided documents corroborating many of these expenses including an annual mortgage statement, a service charge statement, a council tax bill, a ground rent demand, medical bills (from Australia) and a tax invoice for the supply of controlled drugs. She also included a hospital discharge report providing details of her complex health conditions.

20. Ms Daff had also supplied the FTT with copies of her correspondence with the housing authority leading to its decision to exempt her flat from selective licensing. In it she explained how she had been forced to give up work because of her health condition and did not claim any state benefits but instead rented her flat short term to help financially. While the flat was let she had either stayed with friends in the UK or her parents had paid for her to fly to Australia to stay with them over the winter months. She explained that she had generally tried to let her flat during the winter when she most needed care, which she obtained in Australia.

21. Ms Daff also submitted a witness statement to the FTT which responded to allegations made by the respondents about the condition of the flat but said very little about her financial circumstances.

22. Mr Sadiq submitted on behalf of the appellant that there had been material available to the FTT which it was obliged to take into account but had not done so. If it had considered that the information provided by the appellant had been inadequate (and he acknowledged that it was certainly not comprehensive) it should have asked her relevant questions. It had not done so, and incorrectly suggested in its decision that the appellant's financial circumstances were "unknown because she made no financial disclosure".

23. On behalf of the respondents, Mr Neilson submitted that Ms Daff had been given a proper opportunity to provide full evidence of her financial circumstances. The FTT's standard directions had required her to provide a statement explaining any circumstances that could justify "a reduction in the maximum amount of any rent repayment order" and warned that "appropriate documentary evidence should be provided". While Ms Daff had provided a schedule of her annual expenditure which was supported by documentary evidence, she had not produced a corresponding breakdown of her annual income or assets. The FTT's statement that she had failed to give "financial disclosure" should be understood as expressing a conclusion that there was insufficient evidence of her income or assets to enable any proper assessment of her financial circumstances to be made.

24. I do not accept Mr Neilson's submission. When determining the amount of a rent repayment order the landlord's financial circumstances must be taken into account. In this case the FTT had evidence of Ms Daff's financial circumstances, but it did not take them into account. It does not seem to me to be possible to interpret the statement "the financial circumstances of the respondent are unknown because she made no financial disclosure" as meaning that the FTT had considered the financial disclosure which had been given and decided it was inadequate. Instead the FTT proceeded on the assumption that Ms Daff had given no financial disclosure, which was factually incorrect.

25. When Ms Daff applied for permission to appeal the FTT addressed her first ground of appeal by restating that it found that she had not made "any financial disclosure". It is common ground that the material that I have reviewed was in the hearing bundle available to the parties. It is possible that the FTT was unaware of the schedule of expenditure and other information contained in that bundle, or that it expected Ms Daff to refer in her oral evidence to any of the documents which she wanted them to consider. Alternatively, the FTT may simply have overlooked that material. But for whatever reason the FTT exercised its discretion in fixing the amount of the rent repayment order without having regard to relevant information which was available to it. Its decision must therefore be set aside because it did not have regard to one of the matters required to be taken into account by a section 44(4).

26. I also agree with Mr Sadiq's submission that the FTT could have made more of the opportunity available to it to obtain relevant evidence. Ms Daff attended the hearing and was cross examined by the respondents' representative but appears not to have been asked any questions by the FTT (or at last none are referred to in the decision). In *Regent Management Limited v Jones* [2012] UKUT 369 (LC) the Tribunal (HHJ Mole QC) explained that it was "an honourable part of its function" for an expert tribunal to raise matters of its own volition which were relevant to the issues to be determined (in that case the quantum of a service charge). Any court or tribunal asked to make a decision on the basis of material which it considers to be incomplete is entitled to put questions of its own to the witnesses who give evidence before it. Where one or more of the parties is without

professional representation, the tribunal's role in eliciting the information necessary to enable it to make a fair decision is doubly important.

27. Mr Neilson submitted that it would be inappropriate for the FTT to question a landlord about their financial circumstances where no documentary evidence of those circumstances had been provided. I entirely accept that self-serving oral evidence which is unsupported by corroborative material may be of very limited assistance, but that does not discharge the FTT from the responsibility imposed on it by section 44(4)(b) to consider the financial circumstances of the landlord. In this case Ms Daff had provided substantial information including details of her financial commitments, a statement that she had been unable to work since 2014 due to her serious illness, a detailed medical history following her most recent discharge from hospital, and evidence of significant outgoings associated with her continuing poor health. If ever there was a case for the FTT to adopt an inquisitorial approach, it was this one.

Issue 2: The relevance of exemption

28. There are at least three circumstances in which a house in an area designated for selective licensing under Part 3 of the 2004 Act may be exempt from that requirement. The first and most obvious is if the house is not a Part 3 house at all, for example, because it is not occupied under a tenancy or licence or is occupied under an exempt tenancy (for example because it is granted by a non-profit registered provider of social housing; see section 79(2)-(4), 2004 Act).

29. Secondly, a house may be exempt if it is subject to a tenancy or licence which is itself exempt under the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006. These include tenancies which cannot be assured tenancies under the Housing Act 1988 (for example because they are business tenancies or tenancies of licence premises); tenancies of a dwelling managed by local housing authority, a police authority or a health service body; tenancies for a term of more than 21 years and so on).

30. A third category of exemption is the temporary exemption provided for by section 86, 2004 Act. Where the controller or manager of a Part 3 house notifies the local housing authority of their intention to take steps to secure that the house is no longer required to be licensed, the authority has a discretion under section 86(2) to serve a temporary exemption notice in respect of the house, the effect of which is that the house is not required to be licensed during the period for which the notice is in force. A temporary exemption notice may not be given initially for a period of more than 3 months, and only exceptionally for a further period of 3 months.

31. It is unclear whether a local housing authority could lawfully introduce a selective licensing scheme which provides for other types of exemption; Mr Sadiq thought not, but what is important in this case is that the scheme introduced by Tower Hamlets in 2016 did not include any additional category of exemption. The current scheme is available on the authority's website, and I was shown a copy of the 2016 scheme.

32. It will always be necessary for a tribunal to be satisfied that no relevant exemption applied to a house during the period of the offence in respect of which a rent repayment order is

sought. If an exemption applied, then no licence will have been required and no offence under section 95(1) will have been committed. The initial burden of establishing that a house is one for which a licence is required falls on the applicant for the rent repayment order, but if it is shown that a dwelling is within an area of selective licensing that will usually be sufficient to require the respondent to demonstrate circumstances giving rise to a relevant exemption.

33. In this case Ms Daff has been informed in writing by the local housing authority that her property is exempt. That can only mean that it is exempt in the first of the three senses I have referred to, i.e. that it is not a Part 3 house at all because it is no longer subject to a tenancy or licence but instead is the appellant's own home in which she lives. The FTT was not put on inquiry of any other possible basis of exemption, and it was quite entitled to limit its consideration to pointing out that an exemption is not retrospective.

34. If the appeal been brought only on ground two it would not have succeeded.

Redetermination

35. When I indicated that the appeal would be allowed on ground one, Mr Sadiq and Mr Neilson agreed that the better course would be for me to redetermine the amount of the rent repayment order, rather than remitting the case to the FTT. There was no appeal against the FTT's finding that Ms Daff did not have a reasonable excuse for failing to obtain a licence and it was not suggested that that issue should be reopened.

36. Ms Daff had provided further information about her financial circumstances and an additional witness statement. I did not read that material before hearing the appeal but there was no objection to it being taken into account when I redetermine quantum. Ms Daff also gave oral evidence and was asked questions by Mr Neilson and by me. She provided a detailed medical history which it is not necessary to recite. She is now in middle age and has suffered serious ill health for the last 20 years. She previously had a successful career as a self-employed IT consultant and worked full-time in Australia for 15 years until she moved to London in 2003. She then continued in the same career until 2014 when her health deteriorated to such a degree that she was no longer able to work. After being hospitalised for many months in 2014 she returned to Australia where her health slowly improved. She became ill again in 2017 after returning to live at Tannery House. By 2018 she had exhausted her savings and rented her home to the respondents for the academic year until June 2019 while she went to stay with her family in Australia. Ms Daff's account of her state of health was not challenged and I accept that she has been seriously unwell for many years.

37. I also accept, as did the FTT, that Ms Daff was unaware of the selective licensing regime which applied to her property when she let it in 2018. No doubt she could have discovered the existence of the scheme if she had made enquiries, but she did not do so. Her flat had been let and she was in Australia in 2016 when the scheme was introduced. She was not informed by her letting agent and the scheme did not come to her attention by any other means. It was not renewed until 2021 by which time the letting to the respondents had been completed.

38. Ms Daff has no source of income from employment or self-employment, does not receive social security benefits and has no investment income. She lives at 19 Tannery House, the outgoings of which were in evidence before the FTT.

39. As for her assets, Ms Daff confirmed what she had told the FTT, namely, that in addition to her home she owns a flat in Australia, another flat in Tannery House (owned jointly with her cousin) and a third in Greenwich. She provided additional information about these properties.

40. The flat in Australia is not let and Ms Daff intends to sell it. Capital drawn down against the equity currently provides her only source of livelihood. She told me that the remaining equity in the flat once the mortgage is repaid is worth AUD $30,000 (approximately £16,000).

41. She purchased her flat in Tannery House on an interest-only mortgage for £270,000. The rate of interest applied to the outstanding debt has increased substantially in the last year and her monthly repayments are now in the order of £2,000. She has not had a recent valuation but estimates that the equity in the flat is between £350,000-£400,000 (a similar flat in the building is currently being marketed at £650,000).

42. Her flat in Greenwich is let at a little over £20,000 a year. The outstanding mortgage is £237,000 and annual interest repayments total £18,500. Routine service charges and a contribution towards capital expenditure on the replacement of a lift contribute to a net deficit of a little under £1,500 a year. The flat was last valued in 2022 at between £350,000 - £375,000.

43. Ms Daff's other flat in Tannery House is owned jointly with a cousin and she is entitled to a half share of the rent which brings £11,700 a year to her. Her contribution towards the interest only mortgage of £310,000 is now a little over £16,000 a year. After service charges and ground rent are taken into account ownership of her half share in this flat currently costs her about £6,500 a year. The flat was valued in 2021 at £575,000 so her interest was worth up to £287,500 at that time although, as she pointed out, that is less than the mortgage and does not take account of capital gains tax.

44. Mr Neilson did not dispute the appellant's evidence that she derives no net income from her rental properties or that she has been funding herself by drawing down capital secured on her flat in Australia.

45. Although Ms Daff has some capital resources, her letting properties were acquired with a view to providing a pension in retirement. She did not contribute to a pension scheme while she was self-employed. She is a UK citizen and paid national insurance contributions throughout her working life, but her financial position is precarious.

46. In *Acheampong v Roman* [2022] UKUT 239 (LC), at paragraph 20, the Tribunal (Judge Cooke) suggested that the following approach to the quantification of rent repayment orders would be consistent with its recent decisions:

"a. Ascertain the whole of the rent for the relevant period.

b. Subtract any element of that sum that represents payment for utilities that only benefited the tenant, for example gas, electricity and internet access. It is for the landlord to supply evidence of these, but if precise figures are not available an experienced tribunal will be able to make an informed estimate.

c. Consider how serious this offence was, both compared to other types of offence in respect of which a rent repayment order may be made (and whose relative seriousness can be seen from the relevant maximum sentences on conviction) and compared to other examples of the same type of offence. What proportion of the rent (after deduction as above) is a fair reflection of the seriousness of this offence? That figure is then the starting point (in the sense that that term is used in criminal sentencing); it is the default penalty in the absence of any other factors but it may be higher or lower in light of the final step.

d. Consider whether any deduction from, or addition to, that figure should be made in the light of the other factors set out in section 44(4)."

47. The total rent paid by the respondents during the 9 months of their tenancy was £22,230. It is not suggested that Ms Daff was responsible for any utility costs. The appropriate order must therefore relate to the sum of £22,230.

48. The seven offences in respect of which a rent repayment order may be made are identified in section 40(3), 2016 Act. Two are offences of violence or intimidation (the use of violence for securing entry contrary to section 6(1), Criminal Law Act 1977, and eviction or harassment of occupiers contrary to section 1, Protection for Eviction Act 1977). Those offences are plainly the most serious of those listed in section 40(3) and in the Magistrates Court they punishable by a fine and a term of imprisonment of up to six months (up to two years in the Crown Court). The offence of breaching a banning order contrary to section 21, 2016 Act, is also particularly serious and is punishable by a term of imprisonment of up to 51 weeks or a fine or both. These three offences are at the upper end of the range of seriousness covered by section 40(3).

49. The remaining four offences all involve breaches of provisions of the 2004 Act (failure to comply with an improvement notice or a prohibition order, and control or management of an unlicensed HMO or Part 3 house) and are generally of a less serious type. That can be seen by the penalties prescribed for those offences which in each case involve a fine rather than a custodial sentence. Although generally these are lesser offences, there will of course be more or less serious examples within each category. The circumstances relating to a failure to comply with an improvement notice, for example, may vary significantly. So too may be circumstances pertaining to a licensing offence.

50. The circumstances of Ms Daff's offence were said by Mr Sadiq to place it at the very bottom of the range of seriousness covered by section 40(3). She was not the sort of "rogue landlord" whom the legislation is designed to deter. The property she let was not substandard, it had very recently been her home and is again, and she has lived elsewhere only temporarily and through force of circumstances. Her reasons for letting were to enable her to pay her mortgage and make ends meet. Mr Sadiq suggested that the seriousness of

this offence was fairly reflected in a rent repayment order in respect of 10% or 20% of the total sum received.

51. For his part, Mr Neilson suggested that the seriousness of the offence was aggravated by the fact that Ms Daff was a "professional landlord". That is how the FTT had described her and it was on that basis, Mr Neilson submitted, that the sum to be repaid should be determined. The Tribunal has recognised that by reason of their resources and experience professional landlords should be held to a higher standard than others and Mr Neilson contrasted the Tribunal's decisions in *Aytan v Moore* [2022] UKUT 27 (LC) and *Hallett v Parker* [2022] UKUT 165 (LC). In the former case, landlords who let out nine residential flats and who were major investors in property were required to repay 85% of the rent they had received, whereas in the latter case the sum to be repaid was set at approximately 25% for a landlord who let a single property, his former family home, and who had been unaware of the need to obtain a licence.

52. The circumstances in which a landlord lets property and the scale on which they do so, are relevant considerations when determining the amount of a rent repayment order but the temptation to classify or caricature a landlord as "professional" or "amateur" should be resisted, particularly if that classification is taken to be a threshold to an entirely different level of penalty. The suggested distinction is no doubt part of the reason for the difference in amount ordered to be repaid in the two examples cited by Mr Neilson, but it is far from being the only reason. The penalty appropriate to a particular offence must take account of all of the relevant circumstances. In this case, for example, while the appellant's property portfolio is not insignificant, she has never sought to make a living from it, and to treat her as if she is running a professional letting business would be unjustified.

53. This case has some similarities with *Hallett*. The offence of letting a Part 3 house without a licence is not of the most serious type; it is nevertheless a criminal offence and enforcement of licensing obligations is essential to the effectiveness of a local housing authority's ability to police housing standards in its area. Ms Daff was at fault in not taking steps to inform herself of her licensing obligation before letting the property, but this was the first occasion on which she had let it herself and she was unaware of the need for a licence. That lack of awareness was contributed to by the fact that she had lived abroad when the licensing scheme was introduced, and by the fact that her letting agent did not advise her of its commencement at that time. It was also significantly contributed to by the fact that she suffered from a serious debilitating illness. As soon as she became aware of the need for a licence, she applied for one, only to be told that it was no longer required. There is no evidence that she has deliberately sought to avoid her responsibilities.

54. I therefore agree with Mr Sadiq that both relative to other rent repayment order offences, and relative to other examples of landlords failing to licence a Part 3 house, the offence in respect of which the rent repayment order is to be imposed in this case is very much towards the bottom of the range of seriousness.

55. There are no relevant issues of conduct to be taken into account and neither credit nor debit is due to reflect the unexceptional condition of the property or the behaviour of the parties.

56. Ms Daff has no source of income other than what she receives from letting two of her four properties (in one of which she has a half share). That income is no longer sufficient to service the interest on her portfolio, which has increased significantly in the last year. She has no savings and lives on the diminishing capital of her Australian flat which will soon be exhausted. After that it will be necessary for her to dispose of at least one of her London flats which is likely to produce a capital sum against which a tax charge would be offset.

57. The circumstances of this case are exceptional in that the appellant is a person of limited means and no earning power, whose very poor health has contributed to her lack of attentiveness to her licensing obligations. She is in a precarious financial position. In my judgment the achievement of the statutory objectives of punishing defaulters and deterring future offences does not require the imposition of disproportionate penalties. I take that into account in determining that, in this case, the appropriate rent repayment order is one of £2,000.

58. Rent repayment orders are not intended to be compensatory, but are a windfall bestowed in addition to any other remedies to which a tenant may be entitled. They are a blunt instrument which cannot be wielded with much subtlety or precision, and I therefore do not think it is necessary in this case that the modest sum to be repaid should be split in proportion to the relative contributions of the two respondents to the monthly rent (one paid approximately twice as much as the other).

59. For these reasons I set aside the order made by the FTT and substitute an order that the appellant repay the total sum of £2,000 to the respondents, to be divided equally between them.

Martin Rodger KC

Deputy Chamber President

15 June 2023

Right of appeal

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must

identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.