

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
LAND COMPENSATION (NORTHERN IRELAND) ORDER 1982

IN THE MATTER OF "COSTS ON COSTS"

R/2/2022

BETWEEN

COLIN MILLAR – APPLICANT

AND

DEPARTMENT FOR INFRASTRUCTURE – RESPONDENT

PART 2

Re: 50 Derrygowan Road, Randalstown

Lands Tribunal for Northern Ireland – Henry Spence MRICS Dip.Rating IRRV (Hons)

Background

1. By a decision dated 13th October 2025, the Tribunal adjudicated on the amount of costs to be awarded in the above reference, for senior counsel and planning expert fees.

2. Prior to its decision on costs, on 22nd July 2025, the Lands Tribunal emailed the parties stating that the Member of the Tribunal was not content to decide the matter of costs on the submitted papers, as he had several questions arising out of the submissions. The Tribunal then directed that a short hearing would be held early in the new term.

3. The parties liaised in respect of a hearing date, and the hearing was listed for Monday 22nd September at 10.30 am, by agreement of the parties.

4. None of the applicant's representatives attended the hearing and after waiting on the applicant's junior counsel for some 40 minutes the Tribunal aborted the hearing. The respondent's junior counsel and solicitor were in attendance at the hearing.

5. At the “conclusion” of its costs decision of 13th October, the Tribunal had directed that “submissions with regard to the aborted costs hearing are to be with the Tribunal within four weeks of the date of this decision”.
6. The respondent now seeks its costs for the aborted hearing, and this is the issue to be decided by the Tribunal.

Procedural Matters

7. On behalf of the applicant the Tribunal received a submission from Mr Darryl Williams, solicitor of Boal Anderson & Co. Ms Patricia Cronin of the Departmental Solicitor’s Office made a submission on behalf of the respondent. The Tribunal is grateful to the solicitors for their submissions.

Position of the Parties

8. Mr Williams considered that there was no aborted hearing at all. He submitted that firstly the Tribunal made a number of orders arising out of the hearing and in any event, there cannot be a claim for costs on costs.
9. Ms Cronin submitted:
 - (i) The Lands Tribunal has power to award “costs on costs” although such applications should be exceptional. See Christopher Throne v Department for Regional Development R/70/2006 Part 2, at paragraph 9 and H Gillespie (Properties) Ltd v Brian White and Jessica White R/9/2015 at paragraphs 9 and 10.
 - (ii) The applicant’s solicitor did not attend the hearing, nor did the applicant’s senior counsel or expert. After waiting for the applicant’s junior counsel for 40 minutes

the hearing was aborted. Whereas the respondent's junior counsel prepared for and attended the hearing along with the respondent's solicitor.

- (iii) In accordance with the words of Mr Curry in Throne Part 2, the respondent has pursued its costs "with the greatest economy". The respondent could have pursued all of its costs in respect of challenging the applicant's costs in this appeal, however, the respondent is only pursuing the wasted costs of the aborted hearing.
- (iv) In view of all of the above it is submitted that this is an exceptional case where the costs of the aborted hearing should be awarded in favour of the respondent.

The Law

10. Rule 33 of the Lands Tribunal Rules (Northern Ireland) 1976 provides:

"33.-(1) Except in so far as section 5(1), (2) or (3) of the Acquisition of Land (Assessment of Compensation) Act 1919[5] applies and subject to paragraph (3) the costs of and incidental to any proceedings shall be in the discretion of the Tribunal, or the President in matters within his jurisdiction as President."

The Tribunal

- 11. The Tribunal notes junior counsel's explanation that he was delayed in another Court at the time of the aborted hearing but there was no reason whatsoever as to why the applicant's solicitor could not have attended the hearing.
- 12. The Tribunal therefore awards the respondent its costs for the aborted hearing, such costs to be taxed in default of agreement.

3rd November 2025

**Henry Spence MRICS Dip.Rating IRRV (Hons)
LANDS TRIBUNAL FOR NORTHERN IRELAND**