

# QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Little & Anor v Elders Shailer Park & Ors* [2020]  
QCATA 92

PARTIES: **MARITES LITTLE**  
(first applicant\appellant)

**GRAHAM LITTLE**  
(second applicant\appellant)

v

**ELDERS SHAILER PARK**  
(first respondent)

**SAVEN MIHALACHE**  
(second respondent)

**VALENTINA MIHALACHE**  
(third respondent)

APPLICATION NO/S: APL169-19

MATTER TYPE: Appeals

DELIVERED ON: 23 June 2020

HEARING DATE: On the papers

HEARD AT: Brisbane

DECISION OF: Member Richard Oliver

ORDERS: **Leave to appeal refused.**

APPEARANCES: This matter was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act 2009* (Qld)

## REASONS FOR DECISION

- [1] In January 2019 the applicants were the tenants of residential premises at Springwood Road, Springwood. The respondent was the managing agent for the rental premises on behalf of the owner. On 21 January 2019 the tenants vacated the premises. Because of the condition in which the premises were left, the respondents as agent, claimed the full bond of \$1,600.00.
- [2] Because the owner spent further monies in reinstating the premises, the respondents brought a claim for additional compensation of \$7,652.37 in the minor civil disputes jurisdiction of the Tribunal in March 2019. Attached to the application is a series of photographs of damage together with documentary evidence of monies spent.

- [3] The minor civil dispute application came on for hearing on 4 June 2019 but there was no appearance by the applicants. A short hearing was conducted during which the learned Adjudicator went through the various heads of claim and was satisfied that of the total amount claimed, \$5,574.37 should be paid by the applicants. I note that in his reasons, he requested that the respondent email the applicants with a copy of the order made by the Tribunal, which they undertook to do. I proceed on the assumption that this occurred.
- [4] Then on 1 July 2019 the applicants filed the application for leave to appeal or appeal and the usual procedural directions were made for the conduct of the appeal. They included requiring the applicants to serve a copy of the application for leave to appeal or appeal on the respondents, which they did by 18 November 2019. The applicants were also directed to file any material in support of the appeal and for the respondents to file any material in response. Apart from the application for leave to appeal, the applicants have not filed any further material in the appeal contrary to directions made on both 27 August 2019 and 11 November 2019. Nor have they informed the Tribunal they have chosen not to file a further material.
- [5] The grounds of appeal themselves are somewhat limited in that it is alleged by the applicants that:
- Water damage to ceiling and walls after painting the damaged ceiling the paint was mismatched (old-new) and wall was slightly affected by discolouration on leaving the owners declared they wanted to clean house themselves (breach of lease agreement – to be cleaned by professional company) if I sign bond money to them. They refurbished house for resale I am not viable for house repaint – not notified of these proceedings.
- [6] That in itself does not identify any error of law or substantial reason, without more, as to why leave to appeal should be granted under s 142 of the QCAT Act. Even accepting that the applicants were not notified of the proceedings, they could have availed themselves of the reopening provisions in the QCAT Act before filing the application for leave to appeal or subsequently applied under s 143A. But no such application has been made. They have done neither.
- [7] The applicants have chosen not to prosecute their appeal, or take any further steps to seek a remedy in the Tribunal. They have not provided any basis upon which leave to appeal should be granted under the usual principles<sup>1</sup>. Therefore, the only course open to the Tribunal is that leave to appeal should be refused.

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<sup>1</sup> *Terera & Anor v Clifford* [2017] QCA 181.