

IN THE COUNTY COURT AT NOTTINGHAM

60 Canal Street
Nottingham

Before HIS HONOUR JUDGE SADIQ

**(1) CORINA HIBBERT BELLION
(2) SHAUN ANDREW BELLION** **(Claimants/Appellants)**

- v -

NOTTINGHAM CITY COUNCIL **(Defendant/Respondent)**

**MR G EXALL appeared on behalf of the Claimants/Appellants
MR J MCDONNELL appeared on behalf of the Defendant/Respondent**

**JUDGMENT
29th APRIL 2026
(AS APPROVED)**

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JUDGE SADIQ:

1. This is a rolled up oral permission to appeal hearing and an appeal hearing, if permission is given, regarding a decision of Deputy District Judge Nunn, made on the 5 February 2026, which allocated the claim to the small claims track. The matter is listed for one and a half hours. The appellant/claimant was represented by Mr Exall of counsel, the respondent/defendant was represented by Mr McDonnell of counsel. I am grateful for their succinct, helpful submissions.

2. The background to this matter can be stated as follows. The claim is for housing and disrepair against the defendant landlord regarding property in Nottingham let to the claimant. The claim is supported by a surveyor's report, dated the 12 June 2025 from Miss Jones, who valued the repaired works in the sum of £1,279.20. The pleaded damages claim in the particulars of claim was seeking specific performance regarding repairs in that amount, including VAT, and general damages exceeding £1,000, but not £3,000. In the claim form the costs of the repairs was pleaded as exceeding £1,000, in addition damages exceeding £1,000, and in terms of value it was stated the damages exceeded £1,000 but limited to £1,500 in total and including a specific performance claim exceeding £1,000. In the defence the defendant denied the repairs of over £1,000, see paragraph 16, and the general damages claim was denied, at paragraph 29. A lot of other factual and legal issues were raised in the defence as well.

3. There was then the directions questionnaires. The defendant submitted the claim should be allocated to the small claims track, the claimant submitted that the claim should be allocated to the fast track, and therefore there was an allocation hearing before Deputy District Judge Nunn on the 5 February 2026. There is a transcript of the proceedings, judgment and the oral permission to appeal. In relation to the transcript of the judgment, the District Judge decided that the case was on the border of small claims track and fast track, the likely values were around £1,000 and in relation to the Practice Direction he said he referred to it as whether or not the case can justly be dealt with on the fast track or not, see paragraph 15 of the transcript of judgment. At paragraph 16 he decided that this was an uncomplex claim and a straight forward disrepair claim, and the complexity firmly put the case in the small claims track. In respect of the values, he said they were on the border of a small claims track and fast track, and he said doing justice between the parties he allocated the claim to the small claims track because of the borderline valuation and the lack of complexity.

4. The legal principles are uncontroversial. CPR 26.91(b) provides that the small claims track is the normal track for any claim by tenant of residential premises against the landlord where (i) the tenant is seeking an order requiring the landlord to carry out repairs to the property i.e. specific performance; (ii) the cost of repairs or other work to premises is estimated not more than £1,000; and (iii) the value of any other damages claim is not more than £1,000. In other words, where the tenant is seeking specific performance and either repair costs exceed £1,000, or any other claim for damages exceeds £1,000, the claim should be allocated to the fast track.

5. CPR rule 26.95 provides, subject to paragraphs 6 and 10, which are not relevant here, that the fast track is the normal track for any claim in respect of (a) for which the small claims track is not the normal track, and (b) either the value of monetary relief not more than £25,000, or (ii) there is a claim for non monetary relief.

6. Practice direction 26, paragraph 16.1 provides where the court is to decide whether to allocate to fast track the claim for which the normal track is the fast track, it will allocate the claim to the fast track unless it believes that it cannot be dealt with justly on that track, namely the fast track.

7. CPR 26.13(1) provides that when deciding the track for the claim the matters to which the court shall have regard include, and then it sets out a non-exhaustive list, and so far as is relevant to this appeal, (a) financial value of the claim; (b) nature of the remedy sought; (c) complexity of fact, law, evidence; and (f) the amount of oral evidence, and also the issues of the parties.

8. Under CPR 26.15 assignment within the fast track Table 1 provides that housing disrepair claims are assigned complexity and to the fast track.

9. It is trite law that the appellate court should not interfere with a case management decision unless the Judge did not apply the correct legal principles, took into account matters which he should not have taken into account, and failed to take account of relevant matters or reached a decision outside the generous ambit of the description afforded to the Judge. I have considered all of the other cases relied upon by the claimant and the defendant as well.

10. Turning to the grounds of appeal, there are grounds of appeal and then there are perfected grounds of appeal which were allowed by way of an order of her Honour Judge Coe KC on the 11 March 2026. She also allowed perfected skeleton arguments. In the appeal bundle index it refers to the perfected grounds of appeal and the perfected skeleton argument. In fact, it actually contains the original unperfected grounds of appeal and skeleton argument, and the claimant confirmed to me orally at this hearing that the claimants relied upon the original grounds of appeal and the original skeleton argument, and that is what I have considered.

11. Turning then to the grounds of appeal, ground 1 is that the Judge failed to consider paragraph 7 of *Birmingham City Council v Lee* [2008] EWCA Civ 891, a Court of Appeal decision, where Hughes LJ said that the effect of CPR 26.61(b), now 26.91(b), is that it provides, where there is a claim for specific performance the disrepair case will be allocated to the fast track if either the cost of repairs or consequential damages claims exceeds £1,000. Here, in the District Judge's judgment, there was no reference at all to paragraph 7 of *Lee*. The effect of CPR 26.91(b) is clear, where the tenant is seeking specific performance or either of their costs exceed £1,000 or any other claim for damages exceeds £1,000, the claim should be allocated to the fast track. Here the claimant was seeking specific performance and repair costs exceeded £1,000, i.e. £1,279, and the general damages claim exceeded £1,000, that is clear from the pleaded case. Therefore the normal track for this case was the fast track, not the small claims track. Therefore ground 1 succeeds. The Judge failed to consider paragraph 7 of *Birmingham City Council v Lee* and the effect of CPR 26.91(b) properly or at all. In other words he failed to apply the correct legal principles.

12. Ground 2 is that the Judge did not find that the claim could not be dealt with justly on the fast track. I have found that the Judge erred in law in not finding that the normal track for this case was the fast track, not the small claims track. Regarding practice direction 26, paragraph 16.1, where the court is to decide whether to allocate to the fast track a claim which the normal track is the fast track, it will allocate to the fast track unless it believes it cannot be dealt with justly on that track. Here the Judge should have found that the normal track for this case was the fast track. There is no proper finding that the case could not be dealt with justly on the fast track. At paragraph 15 he says he considered the Practice

Direction, whether or not it can justly be dealt with in the fast track or not, but then at paragraph 16 he said “I cannot do justice between the parties to allocate the matter to the fast track”. That is the wrong approach. The correct approach is whether the matter cannot be dealt with justly on the fast track. Then at paragraph 17 he said that the case should be dealt with in the small claims track, but that is not the correct approach either. The correct approach is whether the matter cannot be dealt with justly in the fast track.

13. In addition, we have on the defendant’s pleaded case several complex legal and factual issues raised by the defendant which have all been identified by Mr Exall in his oral submissions which meant that the case could not be dealt with justly in the small claims track, or could only be dealt with justly in the fast track.

14. That brings me to grounds 3 to 6. Taking them all together, they amount to this. The Judge applied the discretionary approach under CPR 26.13(1), which was an error in principle. He took account of irrelevant matters and/or failed to take account of relevant matters, and he failed to give adequate reasons. Here the Judge focussed, in my view, on the discretionary matters under CPR 26.13(1), including complexity and value. He erred in law and failed to consider *Birmingham City Council v Lee* and the effect of CPR rule 26.91(b), namely that the normal track for this case was the fast track, not the small claims track, and therefore, as I have said, ground 1 and also ground 3 succeeds.

15. Regarding ground 4, the Judge placed too much weight on the issue of limited value and complexity of the claim. CPR rule 26.13(1)(a), value of claim, and (c) complexity, reflect the issues considered under allocation to the normal track. Here specific performance claim and repair costs exceeding £1,000 and general damages exceeding £1,000, and therefore, as I have said, the normal track for this case was the fast track, not the small claims track. There is no reasoning or finding why the CPR 26.13(1) factors meant that the case could not be dealt with justly in the fast track. Regarding complexity, and CPR 26.15 regarding assignment to the fast track, housing disrepair cases are normally assigned complexity band 3 on the fast track. Lack of complexity is not a reason to allocate to the small claims track if the normal track for this case was the fast track, and in addition, as I have said, there are a number of complex factual and legal issues raised by the defendant in its defence and therefore ground 5 succeeds.

16. Ground 6 is the value of the claim was an irrelevant consideration. As I have said, this is all linked with the other grounds, the Judge should have allocated the case to the fast track, and the value of the claim was not a reason to allocate it to the small claims track, and therefore ground 6 succeeds too.

17. Therefore my conclusion therefore is that all the grounds of appeal are arguable and permission to appeal is granted, and all the grounds of appeal succeed, and therefore this appeal is upheld.

18. I have to then decide the allocation afresh, and I do so. It is not suggested that this matter should be remitted to another District Judge or Deputy District Judge, which would be a complete waste of time and scarce judicial resources. Allocation is a two stage process. The first stage is to identify the normal track for this case. The second stage is to consider allocation overall in light of the matters in CPR 26.13. I have considered paragraph 7 of *Birmingham City Council v Lee* and the effect of CPR 26.91(b) where the tenant is seeking specific performance or either the repair costs exceed £1,000, or any claim for damages exceeds £1,000 the claim should be allocated to the fast track. Here, I am satisfied the claimant is seeking specific performance and the repair costs exceed £1,000, namely £1,279,

and general damages exceed £1,000, and therefore I find that the normal track for this case is the fast track, not the small claims track.

19. Regarding the second stage, and CPR rule 26.13, the question is notwithstanding the fast track being the normal track, should it be allocated to the small claims track? Emphatically it should not. CPR rule 26.13(1)(a) and (b) regarding financial value of the claim and the nature of the remedy sought, reflect the issues considered under allocation to the normal track, here the fast track. Regarding CPR 26.13 1)(c) and complexity, there is oral evidence from the claimants and I understand an additional witness from the defendant, and then we have two experts regarding the disrepair. The parties have not agreed a position regarding the expert evidence in relation to repairs, and, as I have said, there are complex issues raised by the defendant in their defence.

20. Regarding CPR rule 26.13(1)(h), and the views of the parties, I have taken into account the fact that the claimant wants allocation to the fast track, and the defendant wants it to remain in the small claims track. I have also taken into account the interests of justice and all the circumstances of the case. But for all these reasons, and applying CPR rule 26.13, the claim shall be allocated to the fast track, band 3.

(Following further submissions)

21. The claimant has been successful and the principle is that the defendant should pay the claimants' costs of the appeal. In terms of summary assessment the costs must be reasonably incurred and proportionate. The claimants' total costs claim in the cost schedule is £12,153.35, the respondent's costs by contrast are £3,673.50. I take into account that there was more work for the claimant to do; it is their appeal, and adopting a broad brush approach, the solicitor's rates are correct. The profit costs claimed are £4,866.80. A reasonable figure would be £3,000.

22. Regarding disbursements, I am not allowing the costs for drafting a skeleton argument and the application to extend time to appeal, which was refused by her Honour Judge Coe KC. I do allow counsel's brief fee, £3,000. Work done on documents is in my view wholly excessive and unnecessary. The total claimed is £4,275.60. For example, one hour to consider the grounds of appeal and skeleton argument. Over an hour to consider the legal draft, the legal draft is further advice. Nearly one and a half hours to collate the pleadings for filing, etc. Over one hour considering a transcript of the proceedings. Nearly two and a half hours preparing a brief to counsel. Nearly one and a half hours preparing a paginated appeal bundle. The appeal bundle was not long. And three hours for undertaking work until conclusion of the appeal hearing, but no details provided at all.

23. Applying a broad brush approach, and considering proportionality, and bearing in mind this was not a complex appeal, I award £8,000 in total costs which I believe are proportionate.

This transcript has been approved by the Judge