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**First-tier Tribunal
Property Chamber
(Residential Property)**

Case reference : CAM/22UJ/OLR/2013/0159

Property : 115 Peacocks,
Harlow,
Essex Essex CM19 5NZ

Applicant : Graham Paul Wadsworth

Respondent : Emil Investments Ltd.

Date of Application : 16th December 2013

Type of Application : To determine the costs payable on
a lease extension (Section 60 of the
Leasehold Reform and Urban
Development Act 1993 (“the 1993
Act”))

The Tribunal : Bruce Edgington (lawyer chair)
David Brown FRICS

DECISION

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1. The reasonable legal costs of the Respondent payable by the Applicant pursuant to Section 60 of the 1993 Act are assessed at nil.
2. The reasonable costs of valuation of the Respondent payable by the Applicant pursuant to Section 60 of the 1993 Act are assessed at nil.
3. The Respondent is ordered to pay the Applicant’s solicitors costs incurred as a result of the unreasonable behaviour of the Respondent in connection with these proceedings assessed at £180 including VAT

Reasons

Introduction

4. This dispute arises from the service of an Initial Notice seeking a lease extension of the property by a qualifying tenant. In these circumstances there is a liability on the Applicant to pay the Respondent’s reasonable legal and valuation costs. The original application was for the Tribunal to determine the terms of the lease extension and costs. The terms of the lease extension appear to have been agreed which just leaves the question of costs.

5. The directions order made by the Tribunal on the 6th January 2014 required the Respondent to provide a detailed schedule of its legal costs and valuation fee to enable the Applicant to raise any objections to the level of such fees, and the Tribunal to determine their reasonableness. That was not done. There is therefore an application by the solicitors acting for the Applicant for what is sometimes called a 'wasted costs' order.
6. The directions order also said that it considered that the outstanding issues could be dealt with on a consideration of the papers filed and any further written representations made and would do so on or after the 21st March 2014 unless either party requested an oral hearing. Neither party has requested a hearing and the Applicant's solicitors have submitted a bundle including a short statement from Rebecca Rinn who describes herself as a solicitor from Housing and Property Law Partnership, who represent the Applicant. She confirms that no schedule of costs has ever been received.
7. In a letter sent to the Tribunal office on the 24th February 2014 and copied to the Respondent's solicitors, the Applicant's solicitors ask for a wasted costs order in the sum of £250 although this is not quantified in the sense that no hourly rate or level of time spent is particularised.

The Law

8. It is accepted by the parties that an Initial Notice was served and therefore Section 60 of the 1993 Act is engaged. The Applicant would therefore normally have to pay the Respondent's reasonable costs of and incidental to:-
 - (a) *any investigation reasonably undertaken of the tenant's right to a new Lease;*
 - (b) *any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56;*
 - (c) *the grant of a new lease under that section;*
(Section 60(1) of the 1993 Act)
9. The Tribunal now has wide discretion to make costs orders. As both parties are represented by solicitors who will be well aware of those powers, it is not necessary to spell them out.

Conclusions

10. The Respondent, through its solicitors, has chosen not to file or serve a schedule of costs and valuation fees despite being ordered to do so. The solicitors have been given every chance as the Tribunal notes from the correspondence that there have been reminders from the Applicant's solicitors. The legal fees and valuation fee are therefore assessed at 'nil'.

11. If it was not going to pursue a claim for costs and valuation fee, the Respondent should have notified the Tribunal and the Applicant's solicitors. They failed to do so and, in the context of this case, they have acted unreasonably. The public purse has had to pay for this decision and the Applicant's solicitors have had to incur the cost of preparing the bundle and a short statement.
12. As to assessing the claim, chasing the Respondent's solicitors was not absolutely necessary and is often part of the work usually undertaken in these cases. Preparing the statement and the bundle index should not have taken a fee earner more than about 30-40 minutes. A Grade B fee earner would normally be responsible for this type of work although copying the bundle itself is not fee earner work. Ms. Rinn says that she is a solicitor but does not give details as to her experience. Doing the best it can and assuming a charging rate of about £200 per hour, the Tribunal assesses the wasted costs at £150 plus VAT including copying costs i.e. £180 in total.

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Bruce Edgington
Regional Judge
21st March 2014