



**FIRST - TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)**

Case Reference : **CHI/00HP/OC9/2015/0009**

Property : **Flat 2, Grace Darling House, 9 Vallis Close,
Poole, Dorset BH15 1XY**

Applicant : **Mrs Dorothea Maude Callaghan**

Representative : **Coles Miller LLP Solicitors**

Respondent : **Stonewater Limited**

Representative : **Humphries Kirk LLP Solicitors**

Type of Application : **Landlord's costs for a lease extension**

Tribunal Members : **Judge D. R. Whitney**

Date of Decision : **17th June 2015**

DECISION

1. This is an application on behalf of Mrs Callaghan (“the Applicant”) the owner of the leasehold interest in Flat 2 Grace Darling House (“the Property”). The Respondent, Stonewater limited is the owner of the freehold interest in the Property. The Applicant sought a lease extension by way of the Leasehold Reform Housing and Urban Development Act 1993. This was completed on 26th March 2015.
2. The parties have failed to reach agreement as to the costs payable by the Applicant to the Respondent. Application was made dated 9th April 2015 and directions were given dated 13th April 2015. Those directions have been substantially complied with and the tribunal received from the Applicant’s representative a bundle under cover of letter dated 2nd June 2015. Further on 16th June 2015 the tribunal received a letter and further attachments from the representative for the Respondent.
3. The tribunal has dealt with this matter on the papers before it.

THE LAW

4. The relevant law is set out in Section 60 of the Leasehold Reform Housing and Urban Development Act 1993 (“the Act”). A copy is annexed hereto marked A.

DECISION

5. The tribunal has considered all of the documents received by it including the bundle and letter dated 16th June 2015 from Humphries Kirk LLP. As to the later the tribunal notes that no direction was given as to the filing of the same. It does however simply reply to points raised by the Applicant in their “Points of Dispute” dated 26th March 2015. The tribunal has accepted the same but in considering the document takes account of the fact that no direction were provided as to its filing of the same. Much of the information contained could and should have been filed with the initial statement filed by the Respondent.
6. The tribunal notes that the hourly rates claimed and the small disbursement of £3 are agreed. The number of letters to the Respondent are likewise agreed.
7. The tribunal approaches the other matters in a way similar to a summary assessment of costs by the courts. It takes a broad brush approach as to what sums are recoverable.
8. Whilst it is clear no counter notice was served in this tribunals opinion under Section 60(1)(a) of the Act a brief review of the initial notice of claim to ensure the validity of the same by the Respondents solicitors is proper and reasonable. This task should not however take an experienced partner who states she regularly undertakes this type of work very long.
9. As to the lease itself the tribunal accepts that this is specialist work. It is correct that consideration needs to be given to the original lease but in this case the document only appears to have been some 9 pages long. The lease extension document finally completed is itself a typical form of statutory lease extension with nothing within

that could be said to be an unusual or individually negotiated clause. The tribunal is surprised to see the amount of time claimed for this work

10. Turning to the correspondence which has been included in the submissions it has been useful to review this. By way of example the tribunal notes that in the Respondent's representatives letter of 29th January 2015 which they included with their submission of 16th June 2015 it refers to having corrected "typographical errors" and yet in the schedule of drafting on 28th January 2015 some 2 units of time is claimed for "drafting to amend wording as requested by Applicant's solicitors".
11. Further many of the letters appear to revolve around the dispute which seems to have arisen between the representatives. It is certainly unfortunate that such a dispute has arisen. The tribunal does however accept the Applicants arguments that costs incurred by the Respondent in determining the correct level of costs recoverable from the Applicant are not recoverable under Section 60 of the Act.
12. The tribunal accepts the Applicants contention that the hourly rate should include all correspondence received in and also that the costs of "file review" should not be recoverable.
13. In considering the costs, as stated above, the tribunal takes a broad brush approach. This should have been a simple and straightforward extension. The tribunal accepts it is reasonable to have undertaken a brief check of the notice served. Taking account of all this and the various submissions including the agreed hourly rates and the like the tribunal considers that the costs payable by the Applicant to the Respondent are £726 plus VAT (if the VAT is not recoverable by the Respondent) and the agreed disbursement of £3 totalling £874.20.

Judge D. R Whitney

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

ANNEX A

Section 60 Leasehold Reform Housing and Urban Development Act 1993

Costs incurred in connection with new lease to be paid by tenant.

(1)

Where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the reasonable costs of and incidental to any of the following matters, namely—

(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;

but this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

(2)

For the purposes of subsection (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs.

(3)

Where by virtue of any provision of this Chapter the tenant's notice ceases to have effect, or is deemed to have been withdrawn, at any time, then (subject to subsection (4)) the tenant's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

(4)

A tenant shall not be liable for any costs under this section if the tenant's notice ceases to have effect by virtue of section 47(1) or 55(2).

(5)

A tenant shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.

(6)

In this section “relevant person”, in relation to a claim by a tenant under this Chapter, means the landlord for the purposes of this Chapter, any other landlord (as defined by section 40(4)) or any third party to the tenant’s lease