

4393



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

Case Reference : LON/OOAW/OC9/2016/0452

Property : Flat 2, 293 Kings Road, SW3 5EP

Applicant : Stephen Low

Representative : Ashley Wilson Solicitors

Respondent : The Trustees of the Slone Stanley Estate

Representative : Pemberton Greenish Solicitors

Type of Application : Application for determination of reasonable costs – flats and premises – Section 91(2)(d) Leasehold Reform, Housing and Urban Development Act 1993

Tribunal : Mr M Martyński (Tribunal Judge)
Miss M Krisko FRICS

Date of Decision : 10 January 2017

DECISION

Decision summary

1. The costs in dispute and claimed by the Respondent are assessed at:

<i>Legal fees:</i>	£2133.50 plus VAT
<i>Fees for plans:</i>	£400.00 plus VAT

Together with unopposed disbursements.

Background

2. The Respondent's claim for costs arises out of the Applicant's claim to acquire a new lease of the subject flat. His Notice of Claim is dated 7 August 2015. The notice proposes a premium of £5,650.00 and a new lease on the same terms as the old save for some small amendments
3. Following service of the Notice of Claim, the Respondent served a Counter-Notice dated 20 October 2015. That notice proposes a premium of £13,300 and proposes a new lease as per a draft attached to the Notice
4. A new lease was entered into by agreement but the parties were not able to agree the costs payable to the Respondent's solicitors

The Application

5. In the Applicants' application to this tribunal he seeks to challenge the following costs claimed by the Respondent:-

Legal fees:	£2,939.50
Courier fee:	£4.30
VAT:	£588.76
Land Registry Fees	£12.00
Lease plan fees	£400.00 plus VAT of £80.00

6. The application was set down to be dealt with on the Paper Track. Statements of Case were filed by the parties. There was no request for an oral hearing and accordingly we have considered this application on the papers alone.

The parties' submissions and our decisions

7. Overall, we have formed the view that; (a) this is a relatively low-cost transaction; (b) there does not appear to be any complicating factors in the transaction.
8. We have therefore formed the view that the costs claimed by the Respondent appear disproportionate to the value and complexity of the transaction. We note that up to the date on which the Counter-Notice was served, the Respondent's solicitors are charging for 6.9 hours work.

After the Counter-Notice is served, a further 4.6 hours are claimed – a total of 11.5 hours. That time appears to us to be excessive.

9. Dealing with the specific objections, we make the following comments.

Item	Time claimed (mins)	Time allowed (mins)	Cost allowed
10.08.15	30	30	187.50
18.08.15	24	12 – we do not consider that any further time is required.	49.00
02.09.15	18	Nil – this appears to be done already	73.50
17.09.15	12	6 – sufficient	24.50
01.10.15	54	30 – sufficient time for this to be done	122.50
02.10.15	108	60 – we are concerned about duplication of work and the time taken generally	245.00
05.10.15	12	Nil – this is a matter for the Valuer	Nil
06.10.15	12	Nil – this is a matter for the Valuer	Nil
12.10.15	18	18	73.50
14.10.15	72	72	294.00
15.10.15	18	Nil – appears to be duplicated	Nil
19.10.15	18	18	73.50
20.10.15	12	12	49.00
12.03.16	78	48 – the amendments do not appear to be anything of consequence	196.00
17.03.16	30	24 – time claimed excessive	98.00
19.03.16	36	24 – as per compromise	98.00
01.04.16	6	6	24.50
06.06.16	6	6	24.50
14.06.16	6	6	24.50
04.07.16	6	6	24.50
23.08.16	18	18	73.50

12.09.16	12	6 – time excessive	24.50
16.09.16	6	6	24.50
28.09.16	30	24 – as per compromise	98.00
05.10.16	12	12	66.00
Anticipated time	30	30	165.00

10. We have therefore allowed a total of 7.9 hours which gives a total profit costs figure of £2133.50.
11. The only remaining issue is the cost of £400.00 for new lease plans. We are not sure why new lease plans were necessary but this is not disputed by the Applicant. The Applicant's dispute is with the cost. The Applicant counter-proposes £200.00.
12. In the absence of any compelling evidence from the Applicant that the fee is unreasonable and given that no objection is made to the fact that plans were produced, we concluded that this was a necessary disbursement and one which the landlord is entitled to recover.

Mark Martyński, Tribunal Judge
10 January 2017

ANNEX - RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the

case number), state the grounds of appeal, and state the result the party making the application is seeking.