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**LEASEHOLD VALUATION TRIBUNAL FOR THE  
LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN  
APPLICATION UNDER SECTION 60 OF THE LEASEHOLD REFORM,  
HOUSING AND URBAN DEVELOPMENT ACT 1993**

**Ref: LON/OOAW/OC9/2007/0027**

**Applicant:** Mr Felix Andrew Zimmerman

**Respondents:** Mr James Joseph Ellison Priestley  
Ms Tatiana Wait

**Property:** Flat 4, 40 St James Gardens, London W11 4RF

**Hearing date:** 23 July 2007

**Members of the Leasehold Valuation Tribunal:**

Mr S E Carrott LLB

**Date of Tribunal's decision:** 23 July 2007

1. **Background**

This is an application under section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 for the determination of the landlord's reasonable costs.

2. The Applicant tenant is Mr Felix Zimmerman and the Respondent landlords are Mr James Joseph Ellison Priestley and Ms Tatiana Wait.

3. The Applicant is represented by Swabey and Co Solicitors and Bishop and Sewell Solicitors represent the Respondent.

4. This application has been dealt with on the paper track without an oral hearing and the parties' respective Solicitors have made written representations

5. **The Submissions of the Parties**

It is the Respondent's case that legal and valuation work was carried out was in accordance with section 60(1) of the 1993 Act. The legal costs based on an hourly rate of £240 per hour are put at £1500 plus VAT with disbursements of £14.44. The surveyor's costs supported by an invoice are put at £1057.50 inclusive of VAT.

6. Against this it is submitted on behalf of the Applicant that the legal costs charged at £240 per hour are excessive and that a reasonable sum is £800 to £900 plus VAT. Reliance is placed upon the strict wording of section 60 of the 1993 and it is contended that the fact that the Respondent landlords have signed the client care letter provided to them by their Solicitor does not mean that the costs are reasonable.

7. As well as criticising the hourly rate it is submitted on behalf of the Applicant that the costs of advising regarding a suitable valuer should not be allowed, that the time spent over the period 5 February to 15 February and in particular relating to the counter notice is excessive and that the time spent on 14 March 2007 and, 28 March 2007, 29

March 2007, 23 April 2007 and 7 June 2007 all relate to the current costs before the Tribunal and therefore should not be allowed. It is submitted that the items represent some 60 minutes of time.

8. As regards the surveyor's costs it is considered that these are considered only to be 'marginally' higher than an acceptable amount and that these should therefore be reduced to £800 plus VAT.

9. **Determination**

Section 60 of the 1993 Act provides as follows -

(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 and incidental to any other 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 purpose 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 the costs in respect of such services might reasonably be expected to have been incurred by him in circumstances had been such that he was personally liable for all such costs.

10. With regard to the valuer's costs the Tribunal determined that there was no basis for interfering. The Applicant's case at its highest were that the costs were 'marginally' too high. There was no criticism of the time spent by the valuer and no evidence proffered to suggest that the charging rate was higher than usual. The Tribunal determined therefore that those costs at £1057.50 were reasonable.
11. It has been said that where notice is given under section 42 that the process is akin to that of compulsory acquisition and that a landlord is entitled to take the advice of a Solicitor who is experienced in dealing with cases under the 1993 Act. A landlord is not required to shop around for the cheapest possible deal or to confine him or herself to Solicitors who will carry out the work for a limited charging rate. In the case of lease extensions, the only limitations placed on the recovery of landlord's costs are those contained in section 60.
12. It is within the Tribunal's general knowledge and experience in such matters that a charging rate of £240 per hour is not beyond the rate of recoverable costs for a Solicitor having experience in this field. There was therefore no basis for the Tribunal to interfere with the hourly rate. It was not the fact of the Respondent landlords having signed the client care letter that made the sum reasonable. The charging rate was payable by reason of the fact that that was the agreement that the Respondent landlords had entered into with their Solicitor. The charging rate was reasonable because it was not beyond the rate of recoverable costs for an experienced Solicitor acting within this complicated field of law. Indeed the Solicitor in the present case was a partner or what is now correctly termed in modern parlance in respect of limited liability partnerships, a General Member.
13. Whereas there could be no criticism of the charging rate the Tribunal nevertheless considered that there was criticism of the final bill in as much as some of the work related to the present application before the Tribunal. Whilst the Respondent landlords would be liable to pay their

Solicitors for all of the work done, section 60 of the 1993 was clear in that it directed that the reasonable costs recoverable (and to be paid by the tenant) must be related to (1) the investigation reasonably undertaken of the tenant's right to a new lease; (2) the valuation of the tenant's flat for the purpose of fixing the premium and (3) the grant of a new lease.

14. The Counter Notice was dated 15 February 2007. It appeared to the Tribunal that the work carried on after this date apart from the conveyancing on the material before the Tribunal did overlap with the application currently before the Tribunal. These costs could not be recovered. The Applicant's assessment of the time not chargeable being some 60 was on high side. Looking at the matter in the round, the legal costs would be reduced to £1360 plus VAT and disbursements of £14.44.

15. Accordingly the Tribunal determined that the reasonable legal costs were £1360 plus VAT and £14.44 by way of disbursements. The reasonable valuation costs were determined at £1057.50 inclusive of VAT.

16. **Decision**

(1) The Respondent's reasonable legal costs are £1360 plus VAT and £14.44 by way of disbursements.

(2) The Respondent's reasonable valuation costs are £1057.50 inclusive of VAT.

Chairman BEC

Date 23/7/07