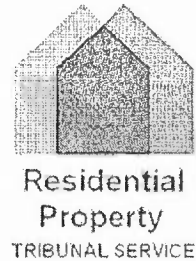


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**RESIDENTIAL PROPERTY TRIBUNAL SERVICE**  
**LEASEHOLD VALUATION TRIBUNAL for the**  
**LONDON RENT ASSESSMENT PANEL**  
**LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

**LON/00AW/OC9/2009/0007**

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**Premises:** Basement & Ground Floor Maisonette & Vaults  
9 Tedworth Gardens  
London SW3 4DN

**Applicant:** Mr J Krug

**Represented by:** Streathers LLP

**Respondent:** Happenstance Properties Ltd

**Represented by:** Wilson Barca LLP

**Tribunal:** Mr NK Nicol  
Mr D Edge FRICS

**Date of Decision:** 27/04/09

## REASONS FOR DETERMINATION

1. The Applicant sought to extend his lease of the subject property at Basement & Ground Floor Maisonette & Vaults 9 Tedworth Gardens London SW3 4DN. The Applicant has applied for a determination of the fees payable to the lessor Respondent under s.60 of the Leasehold Reform, Housing and Urban Development Act 1993, the relevant parts of which read as follows:-
  - (1) Where a notice is given under section 42, then (...) 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; ...
  - (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.
2. The Respondent has a 999-year reversion in respect of the subject property and so is the competent landlord for the purposes of the Act. The Applicant bought the lease of the subject property on 28<sup>th</sup> August 2008 with the benefit of a notice served the same day pursuant to s.42 of the Act. He paid the requested deposit but, when he later decided not to go ahead with the lease extension, the Respondent retained £3,995 in respect of fees allegedly due in accordance with s.60. The Applicant challenges those fees as excessive.
3. On receipt of the Applicant's original notice, the Respondent's solicitor who had conduct of the matter, a senior partner at his firm, identified two matters which potentially rendered the notice invalid. Firstly, only three of the four named

trustees were listed or had signed the notice and, secondly, no terms for the proposed new lease were specified, the notice only making reference to s.57 of the Act. He set out his opinion to his client in a long e-mail. The Respondent herself e-mailed back on 5<sup>th</sup> September 2008 to say she wanted counsel's opinion from a specific barrister she appears to have used previously. She is, of course, fully entitled to the extra insurance such an opinion would provide but, in the Tribunal's opinion, it was not reasonable within the meaning of the statute to incur this cost so as to require the Applicant to pay it under s.60. She had a senior and experienced solicitor who had already considered and advised on the issue (and charged accordingly). It would be double-counting in the circumstances to require the Applicant to pay for both the solicitor's and the barrister's opinions. It is noteworthy that they reached similar conclusions.

4. On the other hand, by reason of these matters, the case did involve elements outside what would normally be expected. The Respondent was entitled to engage a senior partner to work on this case and to expect him to devote sufficient time to considering the additional issues. His work as a result also included serving two versions of the Respondent's counter-notice, one served without prejudice to the other in order to preserve the situation depending on whether the original notice were to be found to be invalid.
5. The Respondent's solicitor claims to have spent 7.6 hours working on this case prior to the Applicant's withdrawal. Even taking account of the additional issues, this appears excessive. The Tribunal agrees with the Applicant that a senior partner who charges according to his status should be expected to deal with matters more quickly than someone more junior. In the Tribunal's opinion, six hours was the maximum amount of time required.
6. The Tribunal therefore determined that the costs payable by the Applicant to the Respondent in accordance with s.60 of the Leasehold Reform, Housing and Urban Development Act 1993 are £1,500 plus VAT in total.

Chairman.....

*N.K. Nicol*

Date 27<sup>th</sup> April 2009