

349



**HM Courts
& Tribunals
Service**



**Residential
Property
TRIBUNAL SERVICE**

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL IN THE
MATTER OF SECTION 88(4) OF THE COMMONHOLD AND LEASEHOLD
REFORM ACT 2002**

Ref: LON/00AN/LCP/2013/0006

Applicant: Assethold Limited

Represented by: Conway and Co Solicitors

Respondent: 91 Hazelbury Road London RTM Company Limited

Represented by: Griffin Smith Farrington Webb LLP

Leasehold Valuation Tribunal: Mr S Carrott LLB

Date of Tribunal's Directions: 25 April 2013

1. This is an application pursuant to section 88(4) of the Commonhold and Leasehold Reform Act 2002 for the determination of the landlord's reasonable costs.
2. On 22 March 2012 the Respondent served a Right to Manage Claim Notice. The Applicant served a counter notice on 24 April 2012 claiming that the Claim Notice was invalid. An application was thereafter made to the Tribunal by the Respondent which determined that the Respondent had acquired the right to manage.
3. The costs claimed by the Applicant are Solicitors fees and disbursements of £813.82 (including VAT) and the fees of the managing agent of £240 including VAT.
4. With regard to the legal costs, work was undertaken by an associate of Conway and Co Solicitors whose charging rate is £225 per hour plus VAT. The associate's experience goes back to 1999 when she was called to the Bar thereafter having converted to a Solicitor. Her charging rate is meant to reflect her pre-conversion experience and experience in Landlord and Tenant matters generally.
5. The managing agents fee is claimed on the basis of receiving the claim form (which is said to be a fixed fee of £240 inclusive of VAT) and which is said to be differentiated from the standard management activities of the managing agent.
6. Amongst other matters, the Respondent makes general criticisms as to the Applicant's terms of business which are unsigned, do not contain any time estimate, with the fees being inconsistent, the hourly rate of the associate being higher than that of a partner. The Respondent points out that the fee earner has less than 4 years post qualification experience. According to the Respondent, the appropriate grade to apply is Grade C.

7. The Respondent also maintains that the managing agents fees should be assessed as nil because all of the information provided by the managing agents was in fact provided by the Respondent.
8. Finally, the Respondent points to the substantive decision of the Tribunal (LON/00AN/LRM2012/0016) where the Tribunal found that there were no real grounds for serving a counter notice.
9. The Respondent contends that the reasonable fees of the Applicant should be reduced to £367.08 inclusive of VAT.
10. Section 80(1) of the Commonhold and Leasehold Reform Act 2002 provides that a Right to Manage company is liable for the reasonable costs incurred by a person who is landlord under the lease.
11. Section 80(2) of the Act provides that any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only 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.
12. Most of the Respondent's criticisms of the Applicant's costs carry considerable force. However the Act does not require the Tribunal to undertake a detailed assessment of the landlord's costs but simply to consider whether the costs properly fall within section 80(2). It is sufficient therefore to look at the costs incurred in the round and consider the reasonableness of the costs on a broad-brush approach having regard to the actual work undertaken.
13. With regard to the managing agents costs of £240, the Tribunal can see no grounds for reducing the managing agents costs. With regard to the legal costs the Tribunal accepts that for the reasons stated by the Respondent there should be a reduction of the legal costs although not

to the extent submitted by the Respondent. The Tribunal considers that the legal costs to be regarded as reasonable are £500 including VAT.

Decision

The Applicant's reasonable costs are –

- (i) £500 inclusive of VAT for legal costs
- (ii) £240 inclusive of VAT for managing agents costs

Chairman: S Carrott LLB