



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

Case reference : **CAM/00MF/OLR/2014/0151**

Property : **Flat 12 and Garage, Mulberry Court, Rose Street, Wokingham, RG40 1XS**

Applicants : **Bernard John Nowlan and Rosemary Jane Nowlan**

Representative : **In Person**

Respondent : **Kentwood House Investments Limited**

Representatives : **Carter Jonas**

Type of application : **Section 60 of the Leasehold Reform, Housing and Urban Development Act 1993**

Tribunal member : **Mrs H Bowers MRICS
Judge Oxlade**

Date of determination : **13th January 2015**

Date of reasons : **13th January 2015**

DECISION

Costs of £1,498.10 (including VAT) are determined as payable under section 60 of the Leasehold Reform, Housing and Urban Development Act 1993.

REASONS

Background

1. This decision relates to an application made under the provisions of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act"). The application made by Mr and Mrs Nowlan (the Applicants) was dated 18th September 2014 and relates to Flat 12 and a Garage situated at Mulberry Court, Rose Street, Wokingham, RG40 1XS (the subject property). The Respondent in this matter is Kentwood House Investments Limited.

The Law

2. Section 60 is reproduced in the Appendix to this decision

The Hearing/Determination

3. The Tribunal issued Directions to the parties on 7th October 2014. The Directions identified that the issues in dispute related to the costs under section 60 of the Act, the terms of the new lease and the premium payable for the new lease. Correspondence subsequently received by the Tribunal indicates that all issues had been agreed other than the costs under section 60. Therefore the hearing was vacated and the Tribunal considered the remaining issues on the papers that had been submitted in accordance with the Directions.

Respondent's Submissions:

4. The Respondent provided a Statement of Costs that was dated 13th November 2014. This certified that the costs detailed were those that the Respondent was contractually liable to pay. This detailed the partner's hourly rate for legal fees as £210 plus VAT. A total of one hour was described as attendance on the client and comprised letters, emails and telephone calls; 12 minutes identified as letters written to the Tribunal; 30 minutes identified as letters, emails and telephone calls to the Applicants' solicitors; 6 minutes identified as researching points of law and advising; an hour in obtaining, reviewing various documents including the lease and legal title; an hour drafting the lease; 18 minutes preparing the cost schedule. It was anticipated that a further 24 minutes would be incurred in agreeing the terms of the new lease, engrossing and executing the new lease and 18 minutes in the final correspondence and completion of the new leases. This was a total of

4.8 hours of time in legal activities and the costs totalled £1,008.00 plus VAT of £201.60. Disbursements were listed to be £12.00 for Official Copy Entries and £402.50 as the estimated surveyor's fee. The total claimed by the Respondent was £1,624.10.

Applicants' Submissions:

5. As general background comments, the Applicants explained that the Respondent had prepared their own counter notice and accordingly that no legal fees should be claimed; that the matter was not complicated; that the Respondent had a number of similar lease extensions in the area, that they were familiar with the issues, and so provided a precedent for the current matter; that the hourly rate was acceptable but that at that level of fee, the work should have been carried out efficiently and that no more than 3.5 hours should allowed for the work, giving a legal cost of £735 plus VAT. It was also stated that the Respondent had not complied with the Directions and had been late in serving its statement of costs.
6. Specific comments stated that correspondence to the Tribunal and preparing the schedule of costs was not recoverable. Other work amounting to three hours for various items including the reviewing of the leases and title documentation and drafting the new leases was excessive and that the time allowance should be reduced by at least 1.5 hours. The Applicants agree as reasonable and recoverable the estimated surveyor's fees of £402.50, but are concerned that the fee that will actually be claimed is £900 plus VAT.

Tribunal's Determination:

7. From an overall perspective the legal fees being claimed of £1,008.00 is not excessive and is certainly within the range of legal fees for this type of claim commonly seen by the Tribunal. It was a feature of this case that there were two leases to extend, one of for the flat and one for the garage. Whilst this was not a complex case, there would have been additional costs involved with that extra documentation. However, we agree with the Applicant that two items of costs which were specifically challenged are not recoverable within the provisions of section 60; namely, costs of £42.00 for correspondence with the Tribunal and the costs of £63.00 for the preparation of the cost schedule is outside the scope of section 60 and accordingly these sums should be deleted from the legal costs being claimed.

8. Dealing with the valuation fees, the amount being claimed is £402.50 and this is noted to be acceptable to the Applicants; it also falls within the band of costs, which the Tribunal commonly sees. The Respondent has not made a claim for a higher sum. Accordingly the Tribunal determine that the sum claimed of £402.50 is reasonable and payable under the provisions of section 60. No dispute is raised over the other disbursement of £12.00 for the Official Copy Entries.

9. Accordingly, the Tribunal assesses as reasonable and payable statutory costs as follows: overall the total legal fees of £1,083.60 (£903 plus VAT of £180.50), together with the disbursements of £414.50. This gives the total costs under section 60 as £1,498.10.

Name: Chairman - Helen Bowers **Date:** 13th January 2015

Appendix

Leasehold Reform, Housing and Urban Development Act 1993

S60.— 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 [the appropriate tribunal] 1 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.