



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

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| Case Reference | : | LON/00BK/OC9/2015/0099 |
| Property | : | Flat 85 St Mary's Mansions, St Mary's Terrace, London W2 1SY |
| Applicant | : | Metropolitan Properties Company Limited |
| Representative | : | Wallace LLP |
| Respondent | : | Patricia Joan Ferguson |
| Representative | : | In person |
| Type of Application | : | Determination of costs payable under s.60(1) of the Leasehold Reform, Housing and Urban Development Act 1993 |
| Tribunal | : | Judge Dickie Mr P Casey, MRICS |

DECISION

Decision of the tribunal

Solicitors' fees of £1459.50 plus VAT are payable by the Respondent to the Applicant, in addition to valuation fees of £767.50 plus VAT.

The application

1. The Applicant seeks a determination pursuant to section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 ("The Act") of the costs to be paid by the Respondent. This matter has been determined on the papers without a hearing.
2. On 25 April 2014 the Respondent, being the owner of the leasehold interest in the property, served a Notice of Claim in accordance with

section 42 of the Act. The landlord's Counter-Notice in accordance with section 45 was dated 27 June 2014 and was served without prejudice to its contention that the Notice was invalid in that it had not been served on the competent landlord and did not comply with section 42(3)(f) and (5) of the Act which requires the Notice of Claim to give not less than two months from the date of the giving of the Notice by which a landlord must respond by giving Counter-Notice.

3. The Respondent did not make an application to this tribunal pursuant to Section 48 of the Act and accordingly the Notice of Claim was deemed withdrawn on or about 28 December 2014.
4. The Respondent disputes the Applicant's solicitors' legal fees of £1459.50 plus VAT and valuer's fee of £1250 plus VAT.
5. So far as is relevant, section 60(1) of the Act provides:

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;*
6. Section 60(2) provides that the costs claimed under section 60(1) will be 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.

Submissions, Determination and Reasons

7. The Respondent queries why the landlord served a Counter-Notice when her Notice of Claim was considered to be invalid. However, pursuant to Section 45(1) the landlord shall give a Counter-Notice which must comply with one of the requirements of subsection (2)(a)-

- (c). In the present case, the landlord admitted pursuant to subsection (2)(a) that the tenant had on the relevant date the right to acquire a new lease of her flat, and subsection (3) requires in such circumstances that the Counter-Notice contains the landlord's proposal in relation to the tenant's proposals in the Notice which are not accepted. Accordingly, the tribunal is satisfied that the landlord had no option but to serve a Counter-Notice containing its proposed lease terms and the premium it thought payable.
8. With regard to the reasonableness of the costs incurred, the Respondent argues that:
- (i) The freeholder's valuation was reached without having access to the flat, presumably based on the freeholder's existing knowledge of lease extensions in other flats.
 - (ii) The freeholders have a huge number of properties in St Mary's Mansions are readily familiar with the actual values of the flats without extensive investigation by surveyors and solicitors.
 - (iii) She understands that lease extensions of similar flats to hers have been completed as a much lower level.
 - (iv) The legal work did not require a partner or senior solicitor to deal with what is effectively repeat work for Wallace LLP who obviously have templates etc. for each step and did not require large amounts of time and expertise.
9. Having considered the evidence and argument, the tribunal is of the view that the time spent on the claim and preparing the Counter-Notice as shown in the landlord's schedule, and the draft of the lease, fully reflects the solicitors' experience as specialists in this field of law and their knowledge of the building from previous lease extension cases within it. It cannot on any view be considered excessive.
10. At £395 and £410 per hour, the hourly rate for a partner at Wallace and Co. is indeed at the upper end of the range. However, the experience of the solicitors and the time taken must be looked at together. Looking at the individual times recorded on the solicitors' costs schedule, it is clear to the tribunal that this matter was dealt with efficiently and without unnecessary time being spent. The tribunal is also satisfied that these costs fall within Section 60(1) and (2), and therefore allows in full the solicitors' costs of £1459.50 plus VAT.
11. The Respondent has disputed that access to the flat was obtained for inspection by the valuer. The Applicant asserts that the property was inspected on 28 May 2014. There is no reference in either the solicitors' Schedule of Costs or the valuer's fee calculation of an attempt

to contact the Respondent to make an appointment to inspect the flat. Whilst Mr Shapiro doubtless travelled to the building, the tribunal assumes he did so without a prearranged appointment. It is not made clear in response to the Respondent's dispute that he obtained access to inspect the flat internally, and without an internal inspection having been arranged, there would seem to the tribunal to be little point in speculatively visiting a block which he apparently already knew very well.

12. In the circumstances the tribunal disallows Mr Shapiro's costs for attending the building on 28 May 2015 of 1.5 hours. The remainder of his costs for preparing the valuation are reasonable and his charging rate reflective of his experience in these matters and, again, his ability to work efficiently as a result. Mr Shapiro rounded down his invoice from £1350 plus VAT and the tribunal has deducted £582.50 from that figure, allowing valuer's fees in the sum of £767.50 plus VAT.

Name: F. Dickie

Date: 20 May 2015