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

Case Reference : **LON/00BH/OC9/2013/0052**

Property : **GFF, 1 Hitcham Road,
Walthamstow, London, E17 8HL**

Applicants : **(1) Graham Keith Scaife(2) Stuart
Jonathan Liddle**

Representative : **Thirsk Winton LLP, Solicitors**

Respondent : **Accessbond Ltd**

Representative : **Ross & Craig, Solicitors**

Type of Application : **Section 91 of the Leasehold
Reform, Housing and Urban
Development Act 1993**

Tribunal Member : **Judge I Mohabir**

**Date and venue of
Hearing** : **29 October 2013
10 Alfred Place, London WC1E 7LR**

Date of Decision : **29 October 2013**

DECISION

Introduction

1. This is an application made by the Respondent under section 91 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) ("the Act") for a determination of the statutory costs payable by the Applicants under section 60 of the Act for the grant of a new lease in relation to the property known as Ground Floor Flat, 1 Hitcham Road, Walthamstow, London, E17 8HL.
2. The total legal costs claimed by the Respondent including VAT and disbursements are £2,874.18. In addition, the Respondent also claims valuation costs of £700 plus VAT.
3. A breakdown of the Respondent's legal costs have been provided by its solicitors in a schedule of legal costs dated 19 September 2013 for the period 19 February to 9 August 2013. It seems that conveyancing matters were dealt with by a Ms Wagon whose attendances are claimed as a Grade A fee earner at an hourly rate of £275. Litigation matters were dealt with by a Ms Dymov whose attendances are claimed as a Grade C fee earner at an hourly rate of £225. The schedule itself only contains a brief statements as to the work done in relation to each attendance.
4. The Applicants points of dispute are set out in a statement of case dated 3 October 2013. Each of the disputed attendances is dealt with in turn below.

Relevant Statutory Provision

5. Section 60 of the Act provides:

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 a leasehold valuation tribunal 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.

Decision

6. The Tribunal's determination took place on 29 October 2013 and was based solely on the written representations filed by the parties. The Tribunal's approach was to conduct what effectively amounts to a detailed assessment in the County court of the Respondent's costs based on the Solicitors' guideline hourly rates 2010 for the appropriate level of fee earner. Although the hourly rates are guideline rates they are generally adopted unless there are good reasons not to do and no such reasons exist here.

Fee Earner & Hourly Rate

7. It is accepted by the Applicants that the use of two different grades of fee earner was appropriate in this matter.
8. As to the appropriate grade of the fee earners. The Tribunal accepted the Applicant's submission that at the relevant time Ms Wagon was in fact a Grade B fee earner and that her hourly rate should be £242 per hour. It was also accepted that the appropriate hourly rate for Ms Dymov, a Grade C fee earner, should be £196 per hour.

Attendances on client

9. 2.1 hours are claimed by Ms Dymov for "updating and taking instructions etc". The Respondent appears to be a professional landlord and investor and, in the Tribunal's judgement, the taking of initial instructions regarding this matter, which does not appear to have involved any degree of complexity, should have been a relatively straightforward matter taking no longer than 1 hour and this was allowed as reasonable.

Attendances on Applicants' Legal Representatives

10. 0.7 and 1.5 hours are claimed respectively by Ms Wagon and Ms Dymov for initially dealing with the Leasehold Advice Centre on behalf of the Applicants and then their solicitors to request evidence of title and a deposit.
11. None of these matters struck the Tribunal as requiring a total attendance in excess of 2 hours. The additional work involved in dealing with the Leasehold Advice Centre would not have been extensive and appears to be only to clarify their position in relation to the Applicants.
12. Accordingly, the Tribunal determined that the attendance of 0.7 hours claimed by Ms Wagon at £242 per hour should be allowed and 1 hour for Ms Dymov at £196 as being reasonable.

Attendance on Respondent's Valuer

13. This was agreed by the Applicants at 0.1 hour and allowed at a rate of £196 per hour.

Perusal of Documents

14. 0.8 and 1.3 hours are claimed respectively by Ms Wagon and Ms Dymov for the perusal of documents which included the section 42 notice, Land Registry searches, the existing lease, valuation, service charge accounts, proof of delivery of the counter notice and diarising key dates.
15. The Tribunal considered that these attendances were necessary, but that the total attendances were excessive. The Tribunal determined that a total attendance as between the two fee earners of 2 hours was reasonable and is to be apportioned at 0.8 hours for Ms Wagon and 1.2 hours for Ms Dymov at the respective hourly rates.

Preparation of Documents

15. 2.1 and 0.6 hours are claimed respectively by Ms Wagon and Ms Dymov for the preparation of the counter notice, lease and completion statement.
16. The works appears to have been almost entirely carried out by Ms Wagon and it is difficult to imagine what work could have been carried out by Ms Dymov given her relative inexperience and junior status. Accordingly, the Tribunal determined that her attendance should be disallowed entirely. As to Ms Wagon's attendance, the Tribunal determined that a total attendance of 2 hours was reasonable for the preparation of the counter notice, lease and completion statement.

Execution and Completion of the new lease

17. The attendance of 0.5 hours is agreed by the Applicants. However, the Tribunal did not accept the submission made on their behalf that this work should have been carried out by Ms Dymov. It clearly forms part of the conveyancing transaction and was properly conducted by Ms Wagon. Accordingly, it is allowed at the rate of £242.

Disbursements

18. These are not challenged by the Applicants.

Valuation costs

19. A valuation fee of £700 plus VAT is claimed in respect of a valuation report prepared by Mr Henson BSc MRICS based on an attendance of 3.5 hours at £200 per hour.
20. By an e-mail dated 12 September 2013, Mr Henson conceded that “the case was not particularly unusual”. On that basis, the Tribunal concluded that a total attendance of 3 hours should be allowed at a rate of £150 per hour plus VAT as being reasonable.
21. Accordingly, the Tribunal determined that the total costs payable by the Applicants under section 60 of the Act are legal costs of £1,946.87 including Vat and disbursements and valuation costs of £540 including VAT.

Judge I Mohabir

29 October 2013