



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

Case reference : **LON/00BG/LCP/2019/0002**

Property : **Nova Building, The Odyssey, 3
Newton Place, London E14 3TT**

Applicant : **Proxima GR Properties Limited**

Respondent : **Nova Building Owners RTM
Company Limited**

Type of application : **Right to Manage – costs under
section 88(4) Commonhold and
Leasehold Reform Act 2002**

Tribunal member : **Judge P Korn**

Date of decision : **11th March 2019**

DECISION

Decision of the tribunal

The tribunal determines that costs of £1,832.00 are recoverable by the Applicant from the Respondent under section 88 of the Commonhold and Leasehold Reform Act 2002 (“CLARA”).

The application

1. The Applicant seeks a determination under section 88(4) of CLARA as to the costs payable to the Applicant by the Respondent in relation to a claim for right to manage by the Respondent in respect of the Property.

Paper determination

2. In its application the Applicant stated that it would be content with a paper determination. In its directions the tribunal stated that it would deal with the case without an oral hearing unless either party requested a hearing. Neither party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

Applicant’s case

3. The Applicant is the landlord of the Property. The Respondent served a claim notice on the Applicant in April 2017 claiming the right to manage in relation to the Property. There then followed correspondence between the parties, the service of a counter-notice, an application to the First-tier Tribunal (“FTT”) by the Respondent, the issuing of a decision by the FTT, the service of a new claim and another counter-notice, written requests from the Applicant to the Respondent for payment of its reasonable costs and then chasing letters in respect of those costs and then this application. The Applicant has included a detailed chronology in its bundle of documents.
4. The Applicant has also included a breakdown of the work undertaken and the time taken to carry out each task, together with a breakdown of the disbursements. It has also included copy invoices containing a narrative and showing the hourly rate and grade of the solicitor involved.

No response from the Respondent

5. The Respondent has not made any submissions in response to the application.

The relevant legal provisions

6. Section 88 of CLARA provides as follows:-

(1) A RTM company is liable for reasonable costs incurred by a person who is –

(a) landlord under a lease of the whole or any part of any premises,

(b) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

in consequence of a claim notice given by the company in relation to the premises.

(2) 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.

(3) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before the appropriate tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.

(4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by the appropriate tribunal.

7. Section 89 of CLARA provides as follows:-

(1) This section applies where a claim notice given by a RTM company–

(a) is at any time withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or

(b) at any time ceases to have effect by reason of any other provision of this Chapter.

(2) The liability of the RTM company under section 88 for costs incurred by any person is a liability for costs incurred by him down to that time.

(3) Each person who is or has been a member of the RTM company is also liable for those costs (jointly and severally with the RTM company and each other person who is so liable).

(4) But subsection (3) does not make a person liable if –

(a) the lease by virtue of which he was a qualifying tenant has been assigned to another person, and

(b) that other person has become a member of the RTM company.

(5) The reference in subsection (4) to an assignment includes –

(a) an assent by personal representatives, and

(b) assignment by operation of law where the assignment is to a trustee in bankruptcy or to a mortgagee under section 89(2) of the Law of Property Act 1925 (c 20) (foreclosure of leasehold mortgage).

Tribunal's decision

8. The Applicant has provided a clear breakdown of costs, including details of work done, the hourly rate and grade of the solicitor involved and a breakdown of disbursements. The Respondent has made no submissions whatsoever and therefore either it accepts that these costs are payable in full or, as a minimum, it has no specific objection.
9. In the absence of any challenge from the Respondent and having considered the Applicant's written evidence in the light of the relevant statutory provisions, I consider that the costs claimed by the Applicant pursuant to this application are reasonable in amount, recoverable under section 88 of CLARA and payable in full.

Name: Judge P Korn

Date: 11th March 2019

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.