



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

**Case Reference** : LON/00AG/LCP/2018/0011

**Property** : 151 Abbey Road, London NW6 4SS

**Applicant** : Assethold Limited

**Representative** : Scott Cohen Solicitors Ltd

**Respondents** : 151 Abbey Road RTM Company Limited

**Representative** : N/A

**Types of Application** : Costs

**Tribunal Members** : Judge Tagliavini  
Mr. Mel Cairns MCIEH

**Date and venue of Hearing** : 29 January 2019  
10 Alfred Place, London WC1E 7LR

**Date of Decision** : 29 January 2019

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**DECISION**

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**The tribunal determines:**

- I. The following sums are payable by the Respondent to the Applicant under section 88 of the Leasehold Reform Act 2002:**

**Legal costs of £1,203.60 (inclusive of VAT)  
Disbursements of £13.00 (exclusive of VAT)  
Management Agent Fees of £400 (plus VAT)**

**Total: £1,683.60**

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**The application**

1. This is an application made by the landlord of the subject property under section 88(4) of the Leasehold Reform Act 2002 ("the 2002 Act"), seeking the reimbursement of costs incurred in response to the Respondent's claim to a 'right to manage' and the subsequent costs payable by the RTM company.

**The Applicant's case**

2. The Applicant seeks a total in costs of £1,683.60 comprising legal costs of £1,203.60 (inclusive of VAT); disbursements of £13.00 (exclusive of VAT) and management fees of £400 (plus VAT).
3. In support of the application, the Applicant provided the tribunal with a lever arch file of documents on which they sought to rely. This included a Schedule of Costs and supporting invoices and an Applicant's Statement of Response dated 14<sup>th</sup> January 2019 in compliance with the tribunal's directions dated 4 December 2018.

**The Respondent's case**

4. The Respondent did not comply with the tribunal's directions but stated in written correspondence dated 09/01/2019 that the Applicant's Schedule of Management Costs had not been received and that the person dealing with the matter was away/unable to deal with this matter until the beginning of February 2019. The Respondent asserted that as a consequence, the Applicant's claim for costs could not be answered.
5. However, the tribunal noted that there is documentary evidence which establishes that the Applicant's Schedule of Costs (including management costs) was sent to and acknowledged by, the Respondent on 17<sup>th</sup>/ 18<sup>th</sup> December 2018. However, the tribunal was not provided with any response from the Respondent setting out its objections (if any), to any of the costs claimed other than reference to a possible 'set off' due to the landlord's alleged failure to release funds held to the RTM Company, although this dispute had not been made the subject of

a separation application as advised by the tribunal; (see letter dated 10/01/2019).

### **The hearing and evidence**

6. As neither party requested an oral hearing, this application was determined on the documents provided. This comprised a lever arch file from the Applicant including a Schedule of costs, a statement in support and other documents on which it relied.
7. The Applicant asserted that all costs sought had been reasonably incurred and fell within the criteria of section 88 of the 2002 Act. The tribunal were informed that the rate charged by Ms Scott was £275 per hour. Ms Scott is Grade A fee earner and a principal of the solicitor's firm used by the Applicant with considerable experience of RTM matters.
8. The Applicant asserted that management fees were also payable and relied upon the management agreement, a copy of which was provided to the tribunal. The applicant drew the tribunal's attention to the terms of that agreement, the RICS Code of Practice which differentiates between standard management activities and those attracting additional fees. Lastly, the tribunal referred the tribunal to a number of cases on which it relied including *Columbia House Properties (No 3) Ltd v Imperial Hall RTM Company Limited* [ 2014] UKUT 0030 (LC), in respect of the recoverability of management fees.

### **The tribunal's decision and reasons**

12. In making its determination the tribunal had regard to the provision of section 88 of the Act which sets out the limits of the permissible costs. The tribunal finds that the costs claimed by the applicant are reasonable and fall within the parameters of the relevant section of the 2002 Act. Further, in the absence of any objection by the Respondent as to the actual amount of the costs claimed by the Applicant, the tribunal does not find that any reductions in the costs claimed should be made.
13. Therefore, the tribunal finds that the total amount of costs claimed of £1,683.60 is payable by the Respondent to the Applicant.

### **Reimbursement of application fee**

14. In the Statement in Response the applicant seeks the reimbursement of the application fee paid to the tribunal of £100. In support of this Application the tribunal was referred to attempts to settle this claim for costs at an early stage with the Respondent.
15. The tribunal determines that it is appropriate to make an order for the reimbursement to the Applicant by the Respondent of the application fee of £100. The tribunal finds that the applicant did actively seek to

avoid making this application for costs, that have now been allowed in full and the tribunal is of the view that the making of this application could have been avoided had the Respondent played a more proactive role in the issue of costs arising from its claim of a 'right to manage.'

Signed: Judge Tagliavini

Dated: 29 January 2019