



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

**Case Reference** : **LON/00AW/OC9/2019/0249**  
**Property** : **Flat 5, 44 Cheniston Gardens,  
London W8 6TH**  
**Applicant** : **Shea Lee Woo**

**Representative** : **Judge & Priestly LLP**

**Respondents** : **Fuad Joseph Kateb & Stella Kateb**  
**Representative** : **Wallace LLP**  
**Types of Application** : **Costs – section 60**

**Tribunal Members** : **Judge Tagliavini**

**Date and venue of  
(paper) hearing** : **17 March 2020  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **17 March 2020**

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**DECISION**

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## **The tribunal's summary decision**

- I. The tribunal finds the following sums to be payable by the applicant.**
    - (i) Legal fees in the sum of £3,137.00 plus VAT**
    - (ii) Valuation fees of £1,750 plus VAT**
    - (iii) Disbursement in the sum of £39.25 (courier) and £21.00 (Land Registry) plus VAT.**
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## **The application**

1. This is an application under section 60(1) of the Leasehold Reform, Housing and Urban Development Act 1993 (“the 1993 Act”). The applicant seeks the tribunal’s determination as to the sums payable in respect of the grant of a new lease by the respondent under the provisions of the 1993 Act.

## **Background**

2. In a Notice of Claim served under section 42 of the 1993 Act and dated 22 January 2020, the applicant sought the grant of a new lease at a premium of £70,000.
3. In a Counter Notice served under section 45 of the 1993 Act dated 28 March 2019, the respondent admitted the applicant’s right to acquire a new lease and counter-proposed a premium payable of £115,285.00.
4. Following a valuation carried out by Mr. Andrew Carrick a Chartered Surveyor on behalf of the respondent, it was discovered that in breach of the terms of the lease dated 14/02/1986 unauthorised alterations had been carried out to the property without the respondent landlord’s permission, by turning the kitchen and living rooms into a single open plan area.
5. Subsequently, the applicant commissioned a fire risk assessment and commissioned the carrying out of the recommended works in order to render these unauthorised works in order to ensure their compliance with the fire regulations. Thereafter, the unauthorised alterations were given retrospective consent by the respondent and this was reflected in the terms of the new lease at the premium of £104,416.00 that was agreed between the parties.
6. The respondent asserts that the costs payable by the applicant under section 60 and 91 of the 1993 Act are £5,92.50 (including VAT) made up of legal fees in the sum of £3,137.00 plus VAT; the valuation fee of

£1,750 plus VAT; a courier fee of £39.25 plus VAT; Land Registry fees of £21.00 plus VAT.

7. The applicant disputes both the legal and valuation costs and asserts that both are unreasonable or not within the permitted costs provided for by the 1993 Act.

### **The applicant's case**

8. In the Applicant's Submissions (undated) it was asserted that:
  - (i) The hourly rates charged by the respondent's legal team were too high.
  - (ii) Items billed in respect of matters dealing with the alleged breach of the lease do not fall within the scope of section 60.
  - (iii) There has been a duplication of work and that some work could have been carried out in a shorter period.
  - (iv) The work of the valuer has dealt with issues of the alleged breach of lease and the unauthorised alterations as well as the valuation. Consequently, these costs are not payable under section 60 and the time spent by the valuer should be reduced as this was an uncomplicated matter. Further, travel costs had previously been reduced by 50%.
9. The applicant submitted that the terms of acquisition of the new lease are defined by section 56 of the 1993 Act and do not provide for the respondent landlord's approach of demanding satisfaction for the unauthorised alterations before agreeing to the terms of a new lease. The applicant asserted that a notice seeking forfeiture would have had to be served and the breach proved to the tribunal before any such costs could be recovered.
10. The applicant also asserted that the hourly rates of £490 (partner), £385 (associate) were excessive and not in line with those recommended by the Law Society Guidelines (published 19 April 2010). Further, the hourly rates charged by the respondent greatly exceeded the Bank of England's rate of interest and therefore by applying this rate of interest to the Law Society Guidelines resulted in hourly rates of £409.52 (partner) and £312.63 (associate).
11. The applicant also referred the tribunal to a previous decision LON/00BK/OC9/2019/0049 dated 29 April 2019 where the hourly rates of the respondent's legal representatives were reduced to £450 (partner); £365 (senior associate); £345 (associate) and £175 (paralegal).

## **The respondent's case**

12. In its Submissions on Costs dated 27 February 2020 with accompany Schedule and exhibits, the respondent submitted stated that the applicant had agreed all elements of the costs except for (i) certain items claimed under section 60; (ii) the hourly rates applied and (iii) valuation costs.
13. The respondent submitted that the subject property is located in an affluent and desirable location on the edge of Prime Central London for which the price payable for the acquisition of a new lease was agreed as £104,416.00. As the value of the claim and the respondent's reversion was high it warranted the high degree of care provided by experienced specialist solicitors based in Central London. Consequently, the legal and valuation fees charged were in the range of what the tribunal had previously considered to be reasonable.
14. The respondent stated that a detailed Schedule of Costs had been provided to the applicant's solicitors together with supporting invoices. The Schedule detailed the work was carried out by the various fee earners with the necessary expertise and assisted by a paralegal. The respondent referred the tribunal to a number of its previous decisions in respect of similar costs matters where the hourly rates of the respondent's solicitors had been approved.
15. The respondent submitted that this matter was not a straightforward claim for the grant of a new lease as it had been complicated by the breach of the lease due to the unauthorised alterations and additional fees of circa £300 had been incurred to deal with that matter.
16. The respondent submitted that the valuation fees of £1,750 (plus VAT) are reasonable and are supported by a detailed breakdown of the time spent.

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

17. The tribunal determines that the hourly rates charged by the respondent's legal representatives are within the range of what is reasonable for a Central London firm. The tribunal finds that as the subject property is located in a high value area with the expectation of a valuable premium to be paid to the landlord, it was reasonable and appropriate for the services of a partner and assistant solicitor specialised in this area of law to act for the respondent and to be supported by the services of a paralegal. Further, the tribunal does not accept the applicant's approach to uprating hourly rates by adopting the outdated Law Society Guidelines and applying a uniform but unspecified Bank of England rate of interest.
18. The tribunal finds that the breach of lease was undiscovered by the respondent until Mr. Carrick's valuation had been carried out. The tribunal does not accept the applicant's submissions that the costs

incurred in dealing with this issue fall outside of the costs recoverable under section 60. The tribunal finds that it was both prudent and necessary for these issues to be addressed in the respondent's consideration of the terms of the new lease. The tribunal finds that the applicant agreed to this approach and accepted the new lease terms. Had the applicant not chosen to accept these new lease terms he could have sought the tribunal's determination on this issue as well as on the issue of the premium payable.

19. The tribunal finds that the valuation costs are within the range of what can be considered to be reasonable. The tribunal finds that in these circumstances a good degree of care and expertise was required due to the value of the subject property and the changes brought about by the unauthorised alterations. Further, the tribunal can see no rationale for reducing the travel costs as suggested by the applicant.
20. In conclusion, the tribunal finds that the costs recoverable by the respondent are £5,92.50 (including VAT) made up of legal fees in the sum of £3,137.00 plus VAT; the valuation fee of £1,750 plus VAT; a courier fee of £39.25 plus VAT; Land Registry fees of £21.00 plus VAT.

**Signed: Judge Tagliavini**

**Dated: 17 March 2020**

### **Rights of Appeal**

By rule 36(2) of The Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they might have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reasons for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within these time limits.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).