



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

Case Reference : **LON/00AH/OC9/2022/0071**

Property : **Flat 26 Zodiac Court 169 London
Road Croydon Surrey CR0 2RJ**

Applicant : **Mr C Coelho**

Representative : **In person**

Respondent : **ZODIAC 11 Ltd**

Representative : **Nockolds Solicitors**

Type of Application : **Costs under s60 Leasehold Reform
Housing and Urban Development
Act 1993**

Tribunal Members : **Judge F J Silverman MA LLM**

**Date of paper
consideration** : **20 June 2022**

Date of Decision : **20 June 2022**

DECISION

The Tribunal allows the Respondent the sum of £1,050.00 exclusive of VAT (£1,260 VAT included) in respect of its solicitors' costs, £695 plus VAT (£834 VAT included) in respect of the valuation fee under s60 Leasehold Reform Housing and Urban Development Act 1993. The total sum allowed is £2,094 including VAT and is payable in full by the Applicant.

REASONS

- 1 This decision relates to an application for the assessment of costs under s60(1) Leasehold Reform Housing and Urban Development Act 1993 (the Act) made by the tenant of the property situated and known as Flat 26 Zodiac Court 169 London Road Croydon Surrey CR0 2RJ (the property) in relation to a claim for an extended lease by the Applicant tenant.
- 2 The Application was filed on 24 March 2022 and Directions were issued on 25 March 2022 as modified on 6 May 2022.
- 3 This matter was decided at a paper consideration held on 20 June 2022. An electronic bundle containing documents supplied by both parties was considered by the Tribunal in reaching its decision.
- 4 The issues before the Tribunal were firstly whether the Respondent was entitled to costs at all and secondly, if so, whether the costs demanded were reasonable.
- 5 The factual background to the application is that the Applicant had served a notice on the Respondent asking for an extended lease of the property under the provisions of the Leasehold Reform Housing and Urban Development Act 1993. Although negotiations were entered into with the Applicant's solicitors it appears that the matter was never concluded because the Applicant failed to enter into a deed of covenant which the Respondent considered was a necessary part of the conveyancing process. The Respondent asserts that the Applicant is now time barred and has lost his right to continue with his extension application.
- 6 The Respondent's solicitors' costs schedule claims £2,130 including VAT, for dealing with the Applicant's notice and the service of the counternotice and associated matters.
- 7 Their detailed schedule of costs pages 29-30 suggests that the major part of the work was carried out by two very experienced solicitors in the Respondent's solicitors' firm who were charging £230 – 235 per hour for their work. These figures are wholly consistent with the hourly rates charged by senior solicitors in similar practices undertaking similar work. While it could be argued (although the Applicant did not do so) that some of the work might have been carried out by more junior staff at a lower hourly rate, the cost saving might have been minimal because the more junior staff would have taken a longer time to complete the same tasks. For that reason the Tribunal accepts both the hourly rates used by the Respondent and their schedule of work as being reasonable.
- 8 The Applicant voiced a number of objections to the Respondent's solicitor's charges. He said that only 5 emails had passed between his solicitor and the Respondent's solicitors and therefore the cost of additional emails should not be his responsibility. The Tribunal rejects this argument as fallacious. The Respondent's solicitors would legitimately have needed to deal with (write/send) a number of emails to a several different people (including their own client

and the valuer) as a routine and standard part of the extension procedure and are entitled to charge for this work.

- 9 The Applicant included in his bundle (eg page 43) quotations or bills from other solicitors indicating a lower charge for work than that demanded by the Respondent. The Tribunal is unable to use these documents as comparators because they do not contain details of what work was done and therefore cannot be relied on as a like for like comparison. Further, it appears that the documents under discussion may have emanated from solicitors who were acting for tenants. The work undertaken by the Respondent who was acting for the landlord is both different and more extensive than that of acting for a tenant and does not provide a valid comparison for these purposes.
- 10 The Applicant declines to pay for the valuer's report on similar grounds to the above. Firstly, he says that he did not see the valuer's report or discuss it with him - this is not surprising because the valuer was instructed by and acting for the landlord. Secondly, the Applicant produced two valuers' bills which were less expensive than that of the Respondent's valuer. Again, the Tribunal is unable to use either of these comparative estimates as guidelines firstly because they do not give details of what work was carried out for the fee charged and secondly because the valuation work carried out on behalf of a tenant may be less complex than that required of a landlord's valuer. In any event it is a statutory condition of a lease extension application that the tenant pays the reasonable valuation costs.
- 11 The Applicant also argued that the valuer's costs should be minimal because multiple valuations were being carried out on the same block of flats and so the work was repetitive. That argument is of limited appeal. While it would be true to say that the location of the flats and the structure and features of the block would be consistent in all cases, the individual flats might have a large number of variations in size, lease length, condition, fixtures etc which would require individual adjustments in each case.
- 12 In the present case the valuation costs were modest and the Tribunal finds them to be reasonable in the circumstances and therefore payable in full by the Applicant (£695 +VAT).
- 13 The only other charge within the remit of the Applicant's responsibility is a disbursement of £30 plus VAT (total £36) representing a telegraphic transfer fee. Since completion does not appear to have taken place this fee is not claimable.
- 14 The costs claimable under s60 are restricted to those relating to the landlord's investigation of the tenant's title, preparation of the counter-notice, valuation for the purpose of fixing the premium and the costs of preparation of the new lease.
- 15 The total allowed to the Respondent by the Tribunal and payable by the Applicant under this application is £2,094 inclusive of VAT which is payable by the Applicant to the Respondent.

16 The Law
Leasehold Reform Housing and Urban Development Act 1993

s 60(1)

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.’

Judge F J Silverman as Chairman

Date 20 June 2022

Note:

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

Under present Covid 19 restrictions applications must be made by email to RPlondon@justice.gov.uk.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.