

RESIDENTIAL PROPERTY TRIBUNAL SERVICE
SOUTHERN RENT ASSESSMENT PANEL AND
LEASEHOLD VALUATION TRIBUNAL

Case No: CHI/00HX/LCP/2009/0011

In the matter of an application under Section 88 of the Commonhold and Leasehold Reform Act 2002 [“the Act”]. Right to Manage – Landlord’s Costs Payable by the RTM Company.

Property: 82-92 Eastbury Way, Swindon, Wiltshire, SN25 2EW

Applicant: Peverel OM Ltd.

Respondent: 82-92 Eastbury Way RTM Co. Ltd.

Application dated: 23rd. October 2009

Tribunal: Mr. J.S. McAllister F.R.I.C.S. [Valuer Chairman]
Mr. P.E. Smith F.R.I.C.S. [Valuer Member]

Decision issued: 26th. March 2010

DETERMINATION AND REASONS

SUMMARY DECISION

1. For the reasons set out below, the Tribunal determines that it is satisfied that the Applicants costs of £499.38, [£425.00 plus VAT] are reasonable and are payable by the Respondent to the Applicant.

REASONS

THE APPLICATION

2. On the 23rd. October 2009, the Applicant, the manager, applied to the Tribunal under section 88 of the Act for a determination of costs incurred in the exercise of the right to manage.

3. The Tribunal issued directions for the matter to be dealt with without an oral hearing and for the Applicant to submit a written statement of case etc. This statement was dated the 3rd. March 2010. The Respondent was directed to produce, in response within 21 days, any written points in dispute, i.e. by the 24th. March 2010.

Furthermore in a letter dated 11th. February 2010, the Tribunal asked the Respondent to inform the Tribunal if the disputed costs have now been agreed. No response has been received from the Respondent

THE LAW

4. Part 2 Chapter 1 of Section 88 of the Act provides:-

5. “[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.”

Section 89 of the Act provides:-

“[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[a] is at any time withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or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.”

APPLICANT’S EVIDENCE

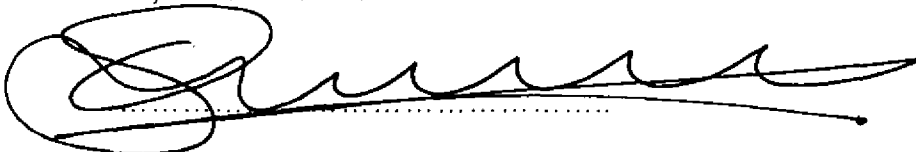
6. This consisted of a written statement dated 3rd. March 2010 with copy attachments and a witness statement with copy attachments, by Miss S. Begum dated 23rd. October 2009. Included with the former was a breakdown of an invoice dated 3rd. March 2009 stating that the solicitor was engaged for approximately 2 ½ hours at £175 per hour [£437.50] but charged £425 plus VAT at 17.5% i.e. £499.38. This breakdown also referred to 18 letters and emails having been sent out and that calls were charged within the hourly rate.

RESPONDENTS’ EVIDENCE

7. The Respondents did not produce any documents or witness statements for the Tribunal.

CONSIDERATION AND DECISION

8. The Tribunal carefully considered all the written evidence submitted by the Applicants. They decided that, having regard to their knowledge and experience of such matters, the costs were properly chargeable. Furthermore there was no evidence or representations from the Respondent that the amount charged, £499.38 including VAT, was unreasonable.

A handwritten signature in black ink, consisting of a large, stylized initial 'S' followed by several loops and a long horizontal stroke extending to the right.

J.S. McAllister F.R.I.C.S.
Chairman
Dated 26th. March 2010