



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

Case Reference : CHI/45UF/OC9/2017/0004

Property : 55 Bishopric Court, Horsham, West Sussex
RH12 1TJ

Applicant : Brickfield Properties Limited

Representative : Wallace LLP

Respondent : Ann Elizabeth Harlin

Representative : Gibbons Smith Property Lawyers

Type of Application : Landlord's costs of a new lease under
Section 60(1) of the Leasehold Reform
Housing and Urban Development Act 1993

Tribunal Member(s) : Judge D. R. Whitney

Date of Determination : 28th April 2017

DETERMINATION

Background

1. The Applicant seeks a determination of the reasonable costs payable by the Respondent following an abortive attempt to seek a lease extension.
2. The Applicant is the Competent Landlord of property known as Bishopric Court, Horsham. A notice of claim to a new lease pursuant to Section 42 of the Leasehold Reform Housing and Urban Development Act 1993 dated 9th June 2016 (“the Notice”) was served on the Applicants by the then owner of Flat 55 Bishopric Court. The benefit of this notice was assigned by a deed of assignment dated 14th June 2016 to the Respondent. On 22nd July 2016 it was agreed that the Notice served was invalid.
3. Subsequently the Applicant by their solicitors Wallace LLP have requested settlement of their costs. The costs were not agreed leading to this application.
4. Directions were issued dated 20th January 2017. These directions have been complied with and a bundle has been supplied to the tribunal. References within this decision in [] are to pages within that bundle.
5. The matter was determined on the basis of written submissions as contained within the bundle and received from both parties.

The Law

6. The relevant law is contained within Section 60 of the Leasehold Reform Housing and Urban Development Act 1993.

Determination

7. It is accepted by both parties that in principle the Applicant is entitled to recover their costs of dealing with the Notice served notwithstanding that the same was determined to be of no effect. The issue for determination is as to the quantum of the charges claimed. The Applicant contends that all their costs amounting to £1,269 are payable. The Respondent contends that the sum payable should be £600 plus vat and disbursements.
8. Turning firstly to the disbursements claimed these are £33 Land Registry charges. Details of these charges are at [25 & 26]. These costs are in respect of obtaining various Office Copy entries as to title and leases. The Respondent in submissions lodged by their lawyers does not appear to challenge these sums. The tribunal determines that the disbursements claimed are reasonable costs incurred by the Applicant in investigating the validity of the Notice.
9. In essence the challenge made by the Respondent is that the Applicants solicitors should not have undertaken all the work they did as they should have readily noted the invalidity of the Notice. Further that the

rates claimed by the Applicants solicitors for the work undertaken are excessive.

10. The Applicants solicitors in their submission set out that they are routinely instructed by the Applicant to deal with matters relating to the Leasehold Reform Housing and Urban Development Act 1993. They state that they have been instructed for many years and their client has approved the charge out rates applied. The Applicants solicitors contend that it is reasonable for matters to be undertaken by a fee earner with relevant experience being a Partner in the practice. The Applicant relies upon various earlier tribunal decisions as to costs in support of their claim and which are included within the bundle supplied [30-60].
11. The tribunal is satisfied that work of this nature is complex. The instruction of a partner is not of itself unreasonable. It is important for Landlords, such as the Applicant, that they give careful consideration to such Notices as a failure to deal properly with the same can have serious consequences. The tribunal is satisfied that it is open to the Applicant to instruct who so ever they choose. It is clear that they have regularly instructed Wallace LLP, a central London firm of solicitors. We are satisfied that the hourly rate claimed is reasonable and it is reasonable in the circumstances of such a Notice for the work to be undertaken by a Partner with the appropriate expertise in this field.
12. The Respondent further contends that in effect the solicitors should have readily identified that the notice was defective and of no effect. Thereafter the Respondent contends that further work should not have been undertaken. Whilst a schedule of work undertaken has been produced no specific comments have been made as to the items included within the same beyond a general contention that costs claimed after the 22nd June 2016 are unreasonable.
13. From the bundle it is clear that by letter dated 30th June 2016 the Applicants solicitors invited the Respondent to agree the notice was invalid. This letter was chased up on 21st July 2016 and by letter from the Respondents lawyers dated 22nd July 2016 the invalidity was admitted [19-21]. The schedule of costs clearly sets out what work was undertaken and how in the Applicants submission these are costs recoverable from the Respondent.
14. The tribunal has considered the schedule of work undertaken [22-24]. The tribunal notes that Wallace LLP were instructed on 22nd June 2016. The schedule sets out the work undertaken including the need to review the assignment documentation given the benefit of the Notice was transferred to the Respondent. None of the work undertaken in the schedule is in this tribunals experience unreasonable. No specific items have been challenged merely a general challenge. We are satisfied it was reasonable for the solicitors for the Applicant to inform the Respondents that they believed the Notice was invalid and to chase a response to this. Such work in so doing and reporting to their client

was reasonable. The tribunal is unable to criticise any of the work undertaken or the need to have undertaken the same.

15. The tribunal determines that the costs claimed by the Applicant in the sum of £1030 plus vat and disbursements of £33 totalling £1269 are reasonable pursuant to Section 60 of the Leasehold Reform Housing and Urban Development Act 1993 and payable by the Respondent.

Judge D. R. Whitney

