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

Case reference : **LON/00BH/0C9/2013/0081**

Property : **Ground Floor 24 Grosvenor Park
Road London E17 9PG**

Applicant : **Mr Anders Gustav Akermo**

Representative :

Respondent : **Ms Jennifer May Hamilton**

Representative : **Mr J Frankel Cavendish Legal
Group**

Type of application : **Application under section 91
Leasehold Reform, Housing and
Urban Development Act 1993 (the
"Act") for a determination of the
costs payable under S60(1) of the
Act**

Tribunal member : **Mrs E Flint DMS FRICS**

: **Determination without an oral
hearing in accordance with
Regulation 31 The Tribunal
Procedure (First-tier Tribunal)
(Property Chamber) rules 2013**

Date of decision : **13 February 2014**

DECISION

Decisions of the Tribunal

- (1) The tribunal determines that legal costs of £1750 + VAT are payable
- (2) The tribunal determines that valuation fees of £650 plus VAT are payable.

The Application

1. The Applicant seeks a determination of the landlord's reasonable costs under section 60(1) Leasehold Reform and Urban Development Act 1993
2. The Applicant is the lessee of the subject premises. The costs are those incurred in respect of his application for a lease extension, the terms of which, other than costs, were reported to the Tribunal as agreed on 11 June 2013.
3. On 17 December 2013 the Tribunal issued Directions which provided for this matter to be decided on the papers unless a hearing was requested. No such request has been received and the Tribunal has reached its decision without an oral hearing in accordance with Regulation 31 The Tribunal Procedure (First Tier) (Property Chamber) Rules 2013.

The Law

4. Section 60 of the Act provides
 - 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.....*
 - (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.

The Evidence

5. Both parties made written submissions. The applicant provided a bundle of relevant documents which included a breakdown of the costs, the draft deed of surrender and re-grant and two previous Tribunal decisions on costs.
6. The Applicant summarised his case stating that some correspondence related to the validity of the first Notice of Claim, with whom negotiations should be carried out and correspondence in respect of errors and incorrect pages in the draft lease. The costs in relation to the invalid notice had been paid out of the statutory deposit paid following service of the first notice and should not form part of the section 60 costs in respect of the second, valid notice. The Applicant should not be required to pay for errors in the draft documentation.
7. The Applicant stated that he was not satisfied on the information available that the valuation had been carried out in connection with the counter notice. He did not dispute the reasonableness of the amount if it had been carried out for the purpose of serving the counter notice.
8. He disputed the number of emails which had been sent by or to him; queried the charge for reading 4 letters from the surveyor and the time spent (1.5 hours) writing to the landlord. He considered the charge of £850 to prepare the new lease excessive as the two changes to the lease were agreed during negotiations at the tribunal and recorded in the Tribunal's decision. The applicant proposed a fee of £250 as per recent LVT decisions: Flats 6, 17, 19 and 37 Minstrel Gardens Surbiton v Sinclair Gardens (Investments) Kensington Ltd (LON/OOAX/OLR/2010/1245) and Ms A A Currie V Mr M Spelman (CHI/OOHP/OC9/2010/0001).
9. The Respondent stated that the Applicant served a section 42 Notice which was deemed withdrawn by virtue of a further section 42 Notice being served. A bill, dated 10 October 2013, was served in the sum of £400 + VAT for considering, investigating and responding by way of a counter notice and included the service of notices for the deduction of title and statutory deposit. The bill was settled out of the statutory deposit leaving a balance of £23.02 due to the Applicant.

10. The section 60 costs in the completion statement to the Applicant include legal costs of £3000 inclusive of VAT. The Respondent stated that there was an unusual amount of correspondence from the Applicant who was unrepresented and who was considered unduly unreasonable and vexatious within these proceedings. A summary breakdown of the costs, which total £2600 + VAT, was attached to the Respondent's statement.
11. The Respondent stated that the valuer's costs were £650 + VAT but that it was not clear if they were being contested.

The Tribunal's decision

12. Legal costs of £1750 + VAT and valuation fees of £650 + VAT are payable.

Reasons for the Tribunal's decision

13. The Tribunal determines that fees totalling £575 in relation to letters in from the Applicant and the surveyor were not payable as they should be regarded as being part of the costs of the general care and conduct of the case: many of the emails were short and some were acknowledging receipt of correspondence. The £50 cost of ordering 2 office copy entries is not payable in full as no cogent reason was produced for ordering a second copy, £25 is allowed. The Tribunal accepted the Applicant's contention that a fixed fee of £850 for the new lease is excessive: the only amendments were those attached to the Tribunal decision of 11 June 2013. The Tribunal has noted that the new lease is a short, relatively simple document with the amendments being included on a one page schedule attached to the lease. The Respondent has not provided any justification for this fixed fee. Doing the best it can on the evidence before it, and on the balance of probabilities the Tribunal considers that the fee payable for the time spent on the grant of the lease is excessive.
14. In the absence of a full breakdown of letters/emails to the client and others in a way which would enable the Tribunal to analyse to what the correspondence relates the Tribunal considers, from its own knowledge as an expert Tribunal, that a reasonable sum for legal fees, including disbursements is £1750 + VAT. The Tribunal has not relied upon previous decisions on costs provided by the Applicants in reaching its decision.
15. The Tribunal determines that the valuer's fee of £650 + VAT was incurred in connection with the service of the counter notice and the cost was not contested by the Applicant.

Name: Evelyn Flint

Date: 13 February 2014