



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

Case Reference : **MR/LON/00BC/OC9/2015/0045**

Property : **3c Valebrook, 2 Park Avenue,
Ilford, Essex IG1 4RT**

Applicant : **Brickford Properties Limited**

Representative : **Wallace LLP, solicitors**

Respondent : **David Kott acting by his personal
representative Doreen Gold**

Representative : **Kennard Wells Solicitors**

Type of application : **For the determination of the
landlord's recoverable costs
incurred in connection with a claim
for a new lease**

Tribunal : **Margaret Wilson
Sarah Redmond MRICS**

**Date of determination
on the papers** : **24 March 2015**

DECISION

Introduction and background

1. This is an application by a landlord, Brickfield Properties Limited, under section 91(2)(d) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for the determination of the recoverable costs which it incurred in pursuance of the tenant's notice of claim to acquire a new lease under Chapter II of Part I of the Act. The tenant gave notice of claim under section 42 of the Act on or about 18 December 2013 and the landlord's counter-notice, given without prejudice to its contention that the notice of claim was invalid, was given on 26 February 2014. The tenant's notice was subsequently deemed withdrawn by virtue of section 53 of the Act because the tenant had failed to agree the terms of acquisition or apply to the Tribunal for a determination of the terms within the time specified in section 48 of the Act.

2. The landlord issued the present application for the determination of its recoverable costs. Directions were made on 28 January 2015 which provided for a determination on the papers and for the provision of the relevant information and statements by the landlord and the tenant. The landlord has provided a schedule of its legal costs to which the tenant's solicitors have responded. The tenant's solicitors' response was late, but the landlord's solicitors have had the opportunity to reply, and have done so, and we are therefore prepared to take the tenant's solicitors' submissions into account. Neither party has asked for an oral hearing and this determination is therefore made on the basis of the papers alone in accordance with rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.

The law

3. By section 60(1) of the Act:

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.*

By section 60(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 for costs under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

The claim

4. The claim, as put both in the landlord's solicitors' letter to the tenant's solicitors dated 8 October 2014 seeking payment of its costs and in the application to the Tribunal, is for £1960 including VAT in respect of legal fees, Land Registry fees of £32, courier fees of £56.50 inclusive of VAT and valuer's fees of £900 inclusive of VAT, a total of £2948.50. The landlord's schedule of legal costs includes legal fees to a total of £1992.50 plus VAT, a total in respect of legal fees of £2391 including VAT, but we have proceeded on the basis that the landlord limits its claim for legal fees to £1960 including VAT, and that the claim is restricted to £2948.50 and not £3379.40 which would be the total claim if the landlord sought recovery of all the legal costs listed in its schedule.

5. The schedule of the landlord's legal costs shows 4.1 hours spent by a partner at an hourly charging rate of £395, 0.3 hours spent by a paralegal at an hourly rate of £150 and 0.8 hours spent by a partner at an hourly rate of £410, all excluding VAT. The landlord's solicitors say that the work is complex and requires consideration by an experienced partner, that the hourly rates charged are consistent with the usual charging rate for solicitors in Central London, and that similar legal fees have been approved by Tribunals in a number of recent cases.

6. The tenant's solicitors say that this was not a complicated case and they question why it was necessary for almost all the work to be carried out by a partner, whose hourly rates they consider to be excessive. They say that their hourly rate for a partner of more than seven years' experience is £250 per hour. They do not challenge the valuer's fees of £750 plus VAT or the Land Registry fees or courier fees.

Decision

7. We are satisfied that all the work for which costs are claimed falls within section 60(1) and that all the work for which a claim is made was carried out. We also accept that the hourly rates for the work listed in the schedule are reasonable for this specialised work carried out by experienced Central London solicitors. Had the claim for legal fees not been limited as set out above we would have said that in our view it was unnecessary for all the legal work to have been carried out by a partner and we would have concluded that some of the work charged at £395 per hour should have been carried out by an

assistant solicitor and charged at a lower rate of, say, £250. Left to ourselves we might also have had concerns about the charge of £328, based on an hourly rate of £410, for preparing a draft lease, work which was arguably premature, but the tenant's solicitors have not challenged that charge, nor have they challenged the courier charge, about which we might also have had misgivings.

8. The reductions we would have made to the legal fees would not, however, have reduced the total to less than the £1960 which is sought in respect of legal fees. The other charges are not challenged and we determine that the sum of £2948.50, comprised as follows, is payable:

Legal fees	£1960 including VAT
Land Registry fees	£32
Courier fees	£47
VAT on courier fees	£9.40
Valuer's fees	£750
VAT on valuer's fees	£150
TOTAL	£2948.40

Judge: Margaret Wilson