

4649



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

**Case reference** : **LON/00AH/OC9/2018/2017**

**Property** : **12 Birchanger Road, London SE25  
5BB**

**Applicant** : **SMJ Developments Ltd**

**Representative** : **S. A. Law**

**Respondent** : **G&O Rents Limited**

**Representative** : **GSL Administration**

**Type of application** : **Costs**

**Tribunal member** : **Judge Tagliavini**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of directions** : **12 March 2018**

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**DECISION**

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## **The Tribunal's decision**

- 1. The tribunal determines that legal costs of £1,600 (plus VAT) are payable by the Applicant lessee to the Respondent landlord, pursuant to the provisions of sections 60 and 99 of the Leasehold Reform Housing and Urban Development Act 1993.**

## **The application**

2. An application was originally made to the tribunal for a determination of the premium payable and the terms of a new lease, for the subject property. The Respondent landlord now seeks the costs associated with that application for a lease extension, pursuant to the provisions of section 60 and 91 of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act").
3. In a Statement of Costs dated 4 January 2018 from Christopher J. O'Dell of GSL Administration, it was stated that the landlord sought legal costs in the sum of £1,600.00 (plus VAT) and valuation costs of £750.00 (plus VAT). Fees were said to have been incurred at an hourly rate of £150.00 with a total time taken of 10.75 hours.

## **The lessee's case**

4. In a Reply dated 20 February 2018, the lessee objected to the legal costs claimed by the landlord. The valuation costs of £750.00 (plus VAT) were accepted. The Applicant stated that the Respondent had failed to confirm that they are contractually liable to pay the legal fees sought, on the basis that the landlord's legal fees were incurred by an "in-house" solicitor. Further, the Applicant queried whether an hourly rate for the solicitor's fees could properly be calculated or how it could be arrived at, or that it could be said that the costs "*have been incurred.*"
5. The lessee did not accept that 10.75 hours were necessary on the application for a lease extension and submitted that only 1.9 hours in total were reasonable. Costs of letters "in and out" could not be accepted and generally the costs incurred had not been sufficiently particularised.

## **The landlord's case**

6. In answer to responses made by the lessee, the landlord contended that section 60 allows recoverable costs to be incurred by the use of an "in-house" solicitor (or other person) and rebutted the lessee's assertion, that there had to be a contractual obligation on the landlord to pay (legal) costs to a third party; *Sidewalk Properties Ltd v Twinn* [2015] UKUT 122 (LC) The landlord submitted that the hourly rate of £150 was reasonable and likely to be well below the hourly rate charged by the lessee's solicitor's. The landlord disagreed with the lessee's suggestion that the work associated application for a lease extension could have been done in less than two hours for £285.00. The landlord

submitted that all the costs incurred by the checking of Notices, title, eligibility, breaches of covenant, reviewing the valuation report, preparation of Counter-Notice, preparing Deeds of Variation and a draft lease and entering into correspondence with the lessee could not be done within the two hours alleged by the Applicant lessee and the time taken of 10.75 hours was reasonably required and all fell within the requirements of section 60 of the Act.

### **The tribunal's decision and reasons**

7. Section 60 of the Act states:

#### **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.*

### **The tribunal’s decision and reasons**

8. The tribunal finds an hourly rate of £150 to be reasonable. Further, the tribunal finds the costs of an “in-house” solicitor are costs that have been “incurred” for the purposes of section 60 and does not accept the lessee’s contention to the contrary. In so far as the time spent on this application, the tribunal notes that neither party have asserted that it was of a particularly complex nature, although notes the changes in identity of the lessee’s representative giving rise to some confusion. However, while the tribunal regards 10.75 hours as being somewhat a longer period that might usually be spent on such an application, it is of the view that the lower than usual hourly rate compensates for this. Therefore, the tribunal finds that a total of 10.75 hours at an hourly rate of £150 plus is reasonable giving rise to a total of rounded down figure of £1600 (including VAT at 20%).
9. The tribunal finds that the information given by the landlord of the costs incurred are sufficiently detailed for the purposes of this application. The tribunal is of the view that they are not required to be set out in forensic detail, for what the tribunal regards as reasonably modest costs.
10. In conclusion, the tribunal determines that legal costs in the sum of £1,600 (plus VAT) are payable by the lessee to the landlord, the valuation costs of £750 plus VAT having been agreed.

**Signed: Judge Tagliavini**

**Dated: 12 March 2018**