



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

**Case Reference** : LON/00BH/OC9/2018/0067

**Property** : 33 Kettlebaston Road, Leyton,  
London, E10 7PE

**Applicant** : Daejan Estates ltd

**Representative** : Wallace LLP, Solicitors

**Respondent** : Sumira Riaz

**Representative** : Cavendish Legal Group

**Type of Application** : Section 91 of the Leasehold  
Reform, Housing and Urban  
Development Act 1993

**Tribunal Member** : Judge I Mohabir  
Mr Kevin MRICS

**Date and venue of  
Decision** : 10 April 2018  
10 Alfred Place, London WC1E 7LR

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**DECISION**

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## Introduction

1. This is an application made by the Applicant under section 91 of the Leasehold Reform, Housing and Urban and Development Act 1993 (as amended) (“the Act”) for a determination of the statutory costs payable by the Respondent under section 60 of the Act for the grant of a new lease in relation to the properties known as 33 Kettlebaston Road, Leyton, London, E10 7PE (“the property”).
2. The Applicant’s entitlement to its costs under section 60(3) of the Act arises in the following way. On 11 February 2017, the Respondent served a Notice of Claim on the Applicant to extend the lease of the property. On 9 May 2017, the Applicant served a Counter Notice admitting the Respondent’s right to extend the lease. Attached to the Counter Notice was a draft lease.
3. It seems that the Respondent failed to make an application to the Tribunal to determine the terms of acquisition in time pursuant to section 48 of the Act and, therefore, there was a deemed withdrawal of the Notice of Claim and the Applicant is entitled to its costs in accordance with section 60(3) of the Act.
4. The parties have been unable to agree the Applicant’s costs and it made this application.
5. The total legal costs claimed by the Applicant are £1,528 plus VAT, valuer’s fees of £850 plus VAT and total disbursements of £53 plus VAT of £4.
6. A breakdown of the Respondent’s legal costs has been provided by its solicitors pursuant to the Tribunal’s Directions. This sets out the level of fee earners and hourly rates claimed in respect of each of them.
7. Both parties have filed written submissions in relation to the Applicant’s costs and, helpfully, the points have been summarised in a Scott Schedule. The Tribunal’s determination is by reference to the schedule unless stated otherwise.

## Relevant Statutory Provision

8. Section 60 of the Act provides:

### **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.

## **Decision**

9. The Tribunal's determination took place on 10 April 2018 and was based solely on the written representations filed by the parties. The Tribunal's approach was to conduct what effectively amounts to a summary assessment of the costs.
10. This matter relates to the Applicant's costs incurred in what can be described as a "standard" statutory lease extension with no particular complication revealed on the papers.

## **Fee Earner & Hourly Rate**

11. Whilst this may have appeared to be a relatively straightforward matter, the Tribunal's view was that this is a highly technical area of law mainly conducted

by firms of solicitors with the requisite knowledge and experience, of which the Applicant's solicitors are one.

12. Having regard to the technical nature of the work and the location of the firm, the Tribunal considered the use of a Partner was appropriate. However, the Tribunal did not consider the hourly rate of £465 to be reasonable and allowed a rate of £350 instead. The Tribunal also considered that the use of a Paralegal was appropriate but did not consider an hourly rate of £200 was reasonable. Only an hourly rate of £150 is allowed in respect of the work done by the Paralegal. All of the costs allowed are, therefore, calculated at these rates.
13. The Tribunal considered that the use of a Partner was appropriate to ensure that the Claim Notices were valid and that valid Counter Notices were prepared and served. These stages are vital in transactions of this nature, especially having regard to the potential sanctions imposed by the Act for failing to do so as demonstrated by the deemed withdrawal of the Respondent's Notice of Claim.
14. Having considered the Applicant's breakdown of costs found in the Scott Schedule, the Tribunal determined that all of the work done had been reasonably incurred save for the following items:
  - (a) Item 6 – providing the valuer with office copy entries before she was actually instructed are costs not reasonably incurred.
  - (b) Item 14 – the Applicant concedes that these costs were not reasonably incurred.
  - (c) Item 16 – the Applicant concedes that only 0.2 hours of time was reasonably incurred.
15. Therefore, the Tribunal allowed the legal costs of £975 plus VAT of £195 totalling £1,170 as being reasonable.

#### **Valuer's Fees & Disbursements**

16. The Tribunal also allowed the valuer's fees of £850 plus VAT of £170 and the total disbursement of £53 plus VAT of £4 as being reasonable.
16. Accordingly, the Applicant's legal and valuation costs and disbursements in relation to 33 Kettlebaston Road, Leyton, London, E10 7PE are allowed at a grand total of £2,252.

Judge I Mohabir

10 April 2018