



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

Case Reference : CHI/29UD/OC9/2018/0015

Property : Flat 1, Thistle Court, Churchill Close,
Dartford, Kent DA1 1QJ

Applicant : Abbey Developments Limited

Representative : Pinney Talfourd LLP

Respondent : Oluwaninyo Ayodele Abolarinwa

Representative : Not represented

Type of Application : Landlord's costs leasehold
enfranchisement

Tribunal Member(s) : Judge Cohen

Date of Decision : 12 March 2019

DECISION

Background

1. On 17 August 2016 the Respondent tenant gave notice under section 42 of the 1993 Act for a new lease.
2. On 31 August 2018 the Applicant informed this Tribunal that the terms for a new lease had been agreed but that the Respondent had failed to complete with the result that the claim was deemed withdrawn. The Applicant supplied the Respondent with details of its costs incurred on investigating the claim.
3. The Applicant received no response from the Respondent in respect of its costs. The Applicant now seeks a determination from the Tribunal on its recoverable statutory costs under section 60 of the 1993 Act.
4. The Tribunal issued directions to progress the application. The Tribunal directed the application to be determined on the papers and required the Respondent to submit its points of dispute to the Applicant's claim of costs by 6 November 2018.
5. The Respondent did not submit points of dispute.

Decision

6. The Applicant claimed legal fees of £1,971.50 plus £394.30 VAT and disbursements of £6.00 making a total of £2,371.80.
7. The Applicant substantiated its claim by providing a schedule of the statutory legal costs.
8. The Respondent did not submit points of dispute in accordance with the directions.
9. Under section 60 of the 1993 Act the tenant is liable to pay the landlord's reasonable costs of and incidental to the investigation of the tenant's right to a new lease; any valuation of the tenant's flat for the purpose of fixing the premium; and

the grant of a new lease. Where the tenant's claim for a new lease is deemed withdrawn the tenant is liable for the landlord's reasonable costs to the date of the withdrawal.

10. The Tribunal has examined the evidence and is satisfied that the costs claimed by the Applicant fell within section 60 except those items commented on in the attached schedule. In consequence, the claim is reduced by £ 110.00 and £ 22.00 VAT.
11. The Tribunal determines that the Respondent is liable to pay the Applicant's reasonable costs of £1,861.50 plus £372.30VAT and disbursements of £6.00 making a total of £2,239.80.
12. The Applicant paid an application fee of £100 on making its application to the Tribunal for an assessment of its costs. I Order that the Respondent reimburses the Applicant that fee by a payment to be made within 28 days from the date of this Order.

Judge Cohen
12 March 2019

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

SCHEDULE

DISPUTED COSTS

Case Reference: CHI/29UD/OC9/2018/0015	Premises: Flat 1, Thistle Court, Churchill Close, Dartford, Kent, DA1 1QJ
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ITEM	COST (£)	APPLICANT'S COMMENTS	RESPONDENT'S COMMENTS	LEAVE BANK (FOR THE TRIBUNAL)
Email in	10.00	From client with S42		Duplicated by next item -disallowed
Draft advice email	44.00	Advice/consideration and advice to client on S42		
Email out	22.00	Advice emailed.		
Email from client	10.00	Response		
Email from L/H	10.00	Response		

Review 2 nd S42 served	22.00	Considering revised S42 Notice		
Draft reply	66.00	Detailed response		
Email out	22.00	Email out		
Email reply	10.00	Response		
Letter out	22.00	To o/s enc Notices to deduce title & request deposit		
Draft Notice	44.00	Drafting notices to deduce title & request deposit		
Letter in	10.00	From o/s with details of inspection		Duplicated below - disallowed
Letter in	10.00	By fax confirming deposit sent		Duplicated below - disallowed
Email out	22.00	To client with inspection details		
Email in	10.00	Response		
Email in	10.00	Confirming money received		
Email in	10.00	Agreeing proposal		
Email in	10.00	Response		Duplicated by next item - disallowed
Email in	10.00	Response		
Drafting notice	44.00	Preparing S45 Notice		
Letter out	22.00	Serving S45 Notice		
Email out	22.00	Copy S45 Notice		
Email in	10.00	Response		
Email in	10.00	Enc report/valuation		
Telephone call	88.00	Voicemail from Land Estates, voicemail returned. Call returned back, advised on offer in region of £10,500 would be accepted		
Email out	22.00	To Land Estates confirming telephone conversation		
Telephone call	22.00	Call to o/s confirming £10,500 would		

		be accepted by our client		
Telephone call	22.00	Land Estates confirming conversation with o/s and buyers visiting Land Estates to discuss		
Drafting	154.00	Preparing draft surrender and regrant		
Telephone call	22.00	Call from o/s accepting offer		
Letter in	10.00	By fax from o/s confirmation offer accepted		Duplicated by next item -disallowed
Email out	22.00	Confirming instructions to accept offer		
Email in	10.00	Response		Duplicated by emails out -disallowed
Email out	22.00	Response		
Email in	10.00	Response		Duplicated by emails out -disallowed
Email in	10.00	Response		Duplicated by emails out -disallowed
Email out	22.00	Response		
Email on	10.00	Response		
Email out	22.00	Response		
Drafting	132.00	Updating draft surrender and regrant		
Email out	22.00	Enc draft surrender and regrant		
Email in	10.00	Response		Duplicated by emails out -disallowed
Telephone call	22.00	Land Estates, confirming docs are still to be executed by both sides.		
Drafting	110.00	Finalising engrossments		
Letter out	22.00	To o.s		
Email in	10.00	Response		
Telephone call	22.00	With o.s confirming engrossments and completion statement to be sent out		
Telephone call	22.00	With client to confirm drafting of engrossments		
Letter out	22.00	Enc engrossments		
Email out	22.00	To o.s confirming valuation report is		

		correct		
Telephone call	22.00	With o.s discussing surveyors fees		
Email out	22.00	Response		
Telephone call	22.00	Confirming ground rent/service charges are outstanding		
Email in	10.00	Enclosing outstanding fees		
Email out	22.00	Response		
Drafting	44.00	Updating completion statement		
Email out	22.00	Enclosing completion statements		
Email in	10.00	Response		
Email out	22.00	Response		
Drafting	44.00	Amending documents to reflect correct name of tenant		
Email in	10.00	Response		
Email out	22.00	Chasing from previous emails no response received		
Email in	10.00	Client chasing file		
Email out	23.00	Response		
Email in	10.00	Response		
Letter out	23.00	Chasing file		
Email in	10.00	Letter from o.s by email		Duplicated by next item –disallowed
Drafting	55.00	Drafting letter to client re matter		
Email out	55.00	To client		
Perusal	27.50	Reviewing file		
Letter out	27.50	To o.s.		
Perusal	27.50	Review file		
Email out	27.50	To client		
Email in	10.00	From client		Duplicated by next item-disallowed
Email out	27.50	Explaining deadlines		

TOTAL	1971.50			

Fee Earners working on file

1. Damian Pitts. Solicitor. 10 years experience - charge out rate £220 per hour
2. Stephen Eccles. Partner. 30 years call - charge out rate £275.00 per hour

Correspondence received charged at £10.00 per item.

Letters out and telephone calls charged at 10% of fee earners rate in 6 minute units.

We confirm that the amount being sought, does not exceed the amount our client is liable to pay.

Schedule of Hourly Rates Charged

Damian Pitts - £220 per hour; all letters out and telephone calls charged at £22.00 each

Stephen Eccles - £275 per hour; all letters out, emails and telephone calls out charged at £27.50 each

Signed: _____

Dated: _____

Comments by Judge Cohen 11 March 2019