



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

**Case Reference** : **LON/00AJ/OC9/2019/0133**

**Property** : **2 Sandall Close, Ealing, London W5  
1JE**

**Applicant** : **Mr. Naveen Sagar**

**Representative** : **In person**

**Respondent** : **Felix Dheepak Jebraj Samuel**

**Representative** : **Pro-Leagal (a law firm regulated  
by the Bar of Rennes, France)**

**Types of Application** : **Section 60 costs**

**Tribunal Members** : **Judge Tagliavini**

**Date and venue of  
(paper) hearing** : **21 August 2019  
10 Alfred Place, London WC1E 7LR**

**Date of Decision** : **21 August 2019**

**DECISION**

## Summary decision of the tribunal

### I. The Applicant is to pay to the Respondent the following sums:

- **£1,540 in respect of legal costs.**
  - **£780 (inc. VAT) in respect of valuer's fees.**
  - **£85.00 in respect of disbursements.**
  - **Total.....£2,405.00**
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### The application

1. This is an application made under section 60(1) of the Leasehold Reform Housing and Urban Development Act 1993 ("the 1993 Act") for the tribunal's assessment and determination of the costs payable to the respondent, in respect of the costs incurred in the grant of a new lease of the subject property.

### Background

2. In a tribunal decision dated 12<sup>th</sup> February 2019, the applicant was required to pay to the respondent the sum of £19,758 in respect of the premium for the grant of the new lease. Subsequently, as the parties were unable to agree the costs payable under section 60(1) of the 1993 Act, the applicant made this current application to the tribunal. The applicant asserts that the reasonable costs payable are £660 for legal fees and £650 plus VAT (£780) for surveyor's fees providing a total sum payable of £1440. However, the respondent asserts that the reasonable legal costs payable are £3,099.00 (including disbursements totalling £85.00) together with £480 for the first surveyor's (desktop) valuation and £780 (inc. VAT) for the second surveyor's valuation.

### The hearing

3. Neither party requested an oral hearing and therefore the tribunal's determination was made on the documents provided separately by the parties

### The Applicant's evidence

4. In support of the application the applicant relied upon a Statement of Case(undated). In this, the applicant contended that the respondent had previously indicated in its communication with the applicant's former representative that the s.60 legal fees were anticipated to be £1600 plus disbursements. Therefore, there was no justification for the respondent to increase them to £3,077 (sic) and the tribunal should ignore the Schedule of Costs provided by the respondent.

5. The applicant stated that he accepted the hourly rate of £220 charged by the respondent's experienced solicitor and Grade A fee earner Ms C Tuplin. However, the applicant submitted that a maximum of 4 hours should be regarded as reasonable (£880). The applicant sought to further reduce this sum by 25% (£660) on the basis that there had been a failed attempt to settle the grant of the new lease before negotiations had broken down at a late stage and an application was subsequently made to the tribunal for its determination of the premium payable. Consequently, Ms Tuplin was already familiar with the file and a reduced amount of work would have been required once the tribunal application for the grant of a new lease had been made.
6. As regards the amount of the valuer's fees the applicant stated that he should not be required to pay for 2 valuer's reports as there was no evidence that access had been refused to the first valuer (Buntings Chartered Surveyors) forcing a desktop valuation to be produced. The applicant stated he agreed that the fee of £780 (inc. VAT) in respect of a valuation by Dunsin's Surveyors was reasonable. The applicant made no submissions as to the disbursements of £85.00.

### **The respondent's case**

7. In support of the respondent's claim to section 60 costs Ms Tuplin produced a detailed Breakdown of Costs setting out the date and a description of the work carried out, the time spent and the charge incurred which totalled 13 hours 42 minutes of time spent on the application for a grant of a new lease and totalling £3,014.00 to which was added £85.00 in disbursements.
8. In the respondent's Response dated 11 July 2019 Ms Tuplin stated that she is a Grade A solicitor with over fifteen years' experience in enfranchisement and statutory lease extension. Ms Tuplin accepted in this Response that legal fees in excess of £3,000 would not normally be incurred for the average statutory freehold extension, but costs had been increased as during the enquiry stages issues had arisen requiring further investigation in respect of the applicant's actual address and a check on the legislation was required regarding a potential statutory default.
9. Ms Tuplin asserted that 2 valuation reports were required as the applicant had refused access to the first valuer and a desktop valuation had been produced at a reduced fee of £300. However, as the applicant objected to the premium put forward in the respondent's Counter Notice a full valuation was required and for which access was provided by the applicant.

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

10. In its assessment of these costs the tribunal had regard to the provisions of section 60 of the 1993 and the parameters placed on the allowable costs in respect of the grant of a new lease.

11. The tribunal does not accept in its totality the Schedule of Costs as there are entries of time spent on uncomplicated, straightforward matters for an a solicitor with 15 years' experience, that appear to the tribunal as excessive and unreasonable. Further, the tribunal finds that there were no real complications in this transaction that were not solved by an additional telephone call or letter and as Ms Tuplin accepts she would not expect average statutory freehold extension to attract fees of £3,000 and similarly the tribunal would not expect a simple leasehold extension and grant of a new lease to attract such a level of legal costs.
12. Therefore, allowing for some extra time to have been necessarily incurred as a result of some minor complications the tribunal finds than an experienced solicitor of Ms Tuplin's grade to have expended a total of 7 hours in respect of this matter and find the 13 hours claimed by Ms Tuplin to be excessive. Therefore, the tribunal finds that the sum of £1,540 is reasonable in respect of legal costs. The tribunal does not accept that a discount should be applied in the manner suggested by the applicant as the legal costs claimed by the respondent post date the failed negotiations and the work required once the applicant's s.42 Notice of Claim had been served.
13. The tribunal does not accept it was reasonable to instruct two different surveyors and is not persuaded, from the evidence provided that the applicant refused access to the first of these (Buntings Chartered Surveyors). Therefore, as the applicant accepts the second valuer's fee, the tribunal finds that £780 (inc VAT) is a reasonable cost for the valuation fees.
14. As there was no challenge made to the disbursements the tribunal finds that the sum of £85.00 is payable.
15. In conclusion the tribunal finds that the total sum payable by applicant to the respondent is £2,405.00.

**Signed: Judge Tagliavini**

**Dated: 21<sup>st</sup> August 2019**

### **Right of appeal**

If either party wishes to seek to appeal this decision the person seeking permission to appeal must make a written application to the Tribunal for permission to appeal so that it is received within 28 days after the latest of the dates that the Tribunal sends to the person making the application notification of this decision to review.