



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

**Case reference** : **LON/00BK/LSC/2018/0044**

**Property** : **Flat 19, 11-20 Southwold Mansions,  
Widley Road, London W9 2LE**

**Applicant** : **Mr Joe Sykes**

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

**Respondent** : **11-20 Southwold Mansions Limited**

**Representative** : **Burlington Estates (managing agents)**

**Type of application** : **Application for costs order under Rule  
13(1)(b) of the Tribunal Procedure  
(First-tier Tribunal) (Property  
Chamber) Rules 2013**

**Tribunal members** : **Mr Jeremy Donegan (Tribunal Judge)**

**Date of supplemental  
decision** : **10 October 2019**

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**SUPPLEMENTAL DECISION**

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## Decision of the Tribunal

**The Tribunal summarily assesses the costs payable by the applicant in the sum of £6,391.81 (Six Thousand, Three Hundred and Ninety-One Pounds and Eighty-One Pence), including VAT. This sum must be paid to the respondent by 24 October 2019.**

## Reasons for the Tribunal's decision

1. This decision supplements the Tribunal's decisions dated 02 July 2018 ('the 2018 Decision') and 28 August 2019 ('the Costs Decision') and should be read in conjunction with those decisions.
2. In the Costs Decision, the Tribunal made the following costs order under Rule 13(1)(b) (ii) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ('the 2013 Rules'):
  - “(a) *The applicant shall pay 50% of the respondent's costs from 21 May to 14 June 2018, summarily assessed in the sum of £5,326.51 (Five Thousand, Three Hundred and Twenty-Six Pounds and Fifty-One Pence) plus any VAT.*
  - “(b) *The respondent shall notify the applicant and the Tribunal whether it is VAT registered and able to recover the VAT on its costs, as input tax, by 11 September 2019. The Tribunal will then issue a supplemental decision, specifying the final sum to be paid by the applicant. Payment will be due within 14 days of the supplemental decision.*”
3. In an email to the Tribunal dated 13 September 2019, Mr Frederick Wallace of Burlington stated “*We can confirm that 11-20 Southwold Mansions Limited is VAT registered and VAT should be paid on the costs award.*” He subsequently clarified the position in an email dated 08 October 2019, stating “*VAT is payable on the legal fees and has been paid on the legal fees. 11-20 Southwold Mansions Limited cannot recover VAT as it is not VAT registered and is not an operating company with a turnover greater than £85,000.*”
4. The parties made further representations, via email, on 09 October 2019. The applicant submitted that VAT should not be payable, as respondent's costs were paid via Burlington which is VAT registered. In an email timed at 13.13, Mr Wallace stated:

*“Burlington Estates “BEL” act as agent on behalf of 11-20 Southwold Mansions Limited “11-20” and were never a party to the contract between 11-20 and EGL.*

*BEL holds funds on trust on behalf of 11-20 as required by s42 Landlord and Tenant Act 1987, which never formed part of BEL's operational revenue. BEL cannot and does not recover VAT on transactions administered as agent for 11-20.*”
5. The Tribunal agrees with Mr Wallace. It is the respondent's VAT status that is relevant; not that of Burlington. Given the respondent is not VAT registered, it

cannot recover VAT on its legal costs. It follows that the applicant must pay VAT of £1,065.30 in addition to the principal sum of £5,326.51. The total sum to be paid to the respondent is £6,391.81.

**Name:** Tribunal Judge Donegan **Date:** 10 October 2019

### **Rights of appeal**

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.