



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

**IN THE COUNTY COURT at Bromley,
sitting at 10 Alfred Place, London WC1E
7LR**

Case reference : **LON/00AF/LSC/2019/0475**

Court Claim No. : **F52YJ849**

HMCTS code : **V: PAPERREMOTE**

Property : **20 Hampton Grange, 14 Mariam
Gardens, Bromley, Kent BR1 3FH**

Applicant : **Hampton Grange (Bromley)
Management Company Limited**

Representative : **SLC Solicitors**

Respondents : **(1) Ms P Rocha
(2) Mr J Churchfield**

Representative : **In person**

Type of application : **Liability to pay service charges and/or
administration charges**

Tribunal members : **Tribunal Judge I Mohabir**

Date of decision : **2 August 2021**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote video hearing, which has been consented to/not objected to by the parties. The form of remote hearing was V: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and all issues could be determined in a paper hearing.

Order of the Tribunal

- (1) The Respondents do pay the Applicant's costs of the proceedings summarily assessed in the sum of £6,994.40 including VAT and disbursements within 28 days of the issue of this decision.

Background

1. By a decision dated 10 May 2021, the Tribunal struck out the Respondents' Defence and/or statement of case and gave directions about the summary assessment of the Applicant's costs of the proceedings.
2. This decision is only concerned with the summary assessment of the Applicant's costs.
3. Pursuant to the Tribunal's direction, the Applicant has filed and served a Schedule of Costs to be assessed. Instead of filing Points of Dispute as directed, the Respondents have filed a Scott Schedule setting out the service charge costs that they disputed in the substantive proceedings. Therefore, the Respondents have not complied with the Tribunal's direction in this regard.
4. Nevertheless, the Tribunal proceeded to summarily assess the Applicant's costs based on the Schedule of Costs provided.

Decision

5. The paper determination took place on 2 July 2021.
6. This case was transferred from the County Court at Bromley and was dealt with as a deployment case where the Tribunal exercised its jurisdiction sitting as the County Court as well and does so here in relation to the assessment of the Applicant's costs.
7. So far as the Tribunal is aware, the case was not allocated to any particular 'track' before it was transferred to the Tribunal and, therefore, the Applicant is, in principle, entitled to recover all of the litigation costs it had incurred. In other words, the Applicant's costs

were not limited, for example, to the fixed costs regime if the case had been allocated to the Small Claims Track in the County Court.

8. Under CPR 44.4(2), the Applicant is only entitled to recover costs that are reasonable and proportionate to the matters in issue. Proportionality is not defined in the rules or the Practice Direction. However, section 11 of the costs Practice Direction indicates that in applying the test of proportionality the Court will have regard to rule 1.1(2)(c) by, so far as practicable, dealing with case in ways which are proportionate:
 - (a) to the amount of money involved;
 - (b) to the importance of the case;
 - (c) to the complexity of the issues; and
 - (d) to the financial position of each party.
9. In the case of *Home Office v Lownds* [2002] EWCA Civ 365 the court of Appeal said that the correct approach to be taken when summarily assessing costs is a two stage one. There has to be a global approach and an item by item approach. The global approach will indicate whether the total sum claimed appears to be disproportionate having regard to the considerations in CPR 44.5(3). If the costs are not disproportionate, then all that is required is that each item should have been reasonably incurred and the cost is reasonable. If the entire costs appear to be disproportionate, then the Court will want to be satisfied that the work in relation to each item was necessary and, if so, the cost of the item is reasonable.
10. The Tribunal considered that the level of fee earner and the hourly rate used by the Applicant's solicitors to be reasonable.
11. The total legal costs claimed by the Applicant are £8,641.70 excluding VAT and disbursements. This case concerned a relatively straightforward service charge dispute with no complexity involving a total net amount of £3,478.19. Therefore, despite the fact that the Applicant's solicitors were dealing with the Respondents as litigants in person, the Tribunal considered the overall costs incurred to be disproportionate. Applying the two stage test above, the Tribunal went on to consider whether the items of work claimed were necessary and the amount claimed was reasonable. Unless stated otherwise, this is to be assumed in the decision. The Tribunal's determination below follows the format used in the Schedule of Costs and is limited to those costs that are disallowed.

Fixed costs on Issue

12. Save for the fixed costs of issue, the other costs claimed are pre-litigation costs and are not recoverable. Only £66.67 plus VAT of £13.33, totalling £80 is allowed.

Attendances

13. Total attendances for emails and telephone calls are reduced to 3 hours. £450 plus VAT of £90 totalling £540 allowed.

Documents

14. The Tribunal considered that the attendances claimed for preparing a statement of case and reviewing demands, accounts and budgets in advance of the CMC was not reasonably incurred and were disallowed. Only the attendance for drafting instructions to the advocate was allowed in the sum of £105 plus VAT of £21 was allowed totalling £126.

Attendances

15. The next 3 amounts claimed for attendances for emails, letters and telephone calls excluding VAT are £1,908, £504 and £420 respectively totalling £2,832. At an hourly rate of £120 this represents 23.6 hours of fee earning time. Having regard to the relatively straightforward nature of this case and the previous attendance of 3 hours allowed for this work, the Tribunal considered the time incurred to be unreasonable and allowed a total attendance of 10 hours, being £1,200 plus VAT of £240 totalling £1,440.

Documents

16. The following items were disallowed as not having been reasonably incurred:

Preparing DQ.

Reviewing Directions.

Reviewing demands, accounts and budgets, as this appears to be part of the work carried out when reviewing the file and is duplication.

Drafting statement of case, as this appears to be part of preparing the Applicant's witness statement and is duplication.

Research.

17. The attendances for reviewing the file and preparing the trial bundle were reduced to 3 hours each respectively in total as being reasonable. Therefore the total costs allowed for work done on documents was £1,452 plus VAT of £290.40 totalling £1,742.40.

Attendances

18. The next 3 amounts claimed for attendances for emails, letters and telephone calls excluding VAT are £532, £199.50 and £323 respectively totalling £1,054.50. At an hourly rate of £95 this represents 11.1 hours of fee earning time. For the reasons given at paragraph 15 above, the total attendances are reduced to 6 hours, being £570 plus VAT of £114 totalling £684.

Documents

19. The following items were disallowed as not having been reasonably incurred:

Reviewing lease, file and client's documents. This work appears to have already been incurred as part of the earlier file review in respect which costs have been allowed and is duplication.

Preparing witness statement and bundle index. This appears to be duplication of work for which attendances have already been allowed.

20. The attendances for drafting the statement of case and preparing the Scott Schedule were reduced to 5 hours and 3 hours each respectively in total as being reasonable. Therefore the total costs allowed for work done on documents was £760 plus VAT of £152 totalling £912.

Disbursements

21. All of the disbursements claimed were allowed including Counsel's brief fee for the final hearing of £750 plus VAT of £150. The total sum allowed for disbursements including VAT was, therefore, £1,470.
22. Accordingly, the total legal costs including VAT and disbursements summarily assessed by the Tribunal that are payable by the Respondents is £6,994.40.

Name: Tribunal Judge I Mohabir

Date: 2 August 2021

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

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.

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.

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.

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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).