



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

Case Reference : LON/00BA/OC9/2021/0079

Property : 46 Wimbledon Close, The Downs,
London SW20 8HL

Applicant : Brickfield Properties Ltd

Representative : Wallace LLP

Respondent : Aidan Freyne

Type of Application : Costs on extension of lease

Tribunal : Judge Nicol

Date of Decision : 14th January 2022

DECISION

Decision of the Tribunal

The Tribunal has determined that the Respondent must pay to the Applicant, in accordance with section 60 of the Leasehold Reform, Housing and Urban Development Act 1993, total costs of £3,070.66.

Reasons for Decision

1. The Applicant is the head lessee and the Respondent is the lessee of the subject property. The Applicant seeks to recover costs incurred in responding to the Respondent's request for a new lease in accordance with section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act"), set out in an Appendix to this decision.

2. Unfortunately, it appears that the Respondent has taken no part in the current proceedings, despite all correspondence about them having been sent to the same address as he used prior to the issue of proceedings.
3. In accordance with the Tribunal's directions made on 7th June 2021, the Applicant provided a bundle of relevant documents and the Tribunal has proceeded to determine the matter on the papers without a hearing.
4. One point to note, however, is that the bundle of documents is far larger than it needs to have been due to the inclusion of multiple copies of the same documents, some of which, such as the lease, are lengthy. This wastes everyone's time and effort. If the Applicant's solicitors continue to produce bundles in this form, they should not be surprised if they are penalised.
5. On 9th December 2019 the Respondent served a Notice of Claim under s.42 of the Act seeking to acquire a new lease. By letter dated 6th January 2020, the Applicant's solicitors notified the Respondent that they regarded the Notice as invalid for two reasons:
 - (a) It did not give a specific date for service of the Counter-Notice; and
 - (b) It did not provide an address for service of the Counter-Notice.
6. The Respondent did not reply and so, on 14th January 2020, the Applicant's solicitors wrote again pointing out that he had failed to pay a deposit on account of the premium or to deduce his title and asking him to make good his default.
7. Again, the Respondent did not reply. The Applicant's solicitors chased him by letter dated 4th February 2020, warning him that, in the absence of a response confirming that he accepts that the Notice is invalid, they would proceed with a Counter-Notice.
8. And again, the Respondent did not reply. The Applicant served the Counter-Notice on 10th February 2020.
9. At last, the Respondent replied. In a letter dated 2nd March 2020, he stated that he did not agree that the Notice was invalid on the basis that a reasonable recipient would have regarded it as clear. However, he also stated, "I do not intend to litigate this and confirm that I will not be proceeding under this notice." He later said that this did not constitute a withdrawal of the notice but the Tribunal does not see any material difference between withdrawing a notice and a decision not to proceed with it.
10. Under section 60(1) of the Act, the Applicant is entitled to claim their costs and do so up to the Respondent's letter of 2nd March 2020. The Applicant claims the following costs, supported by emails and a detailed schedule:

Legal fees

£2,100

Valuation fee	£900
Land Registry fees	£36
Courier	£34.66
TOTAL	<u>£3,070.66</u>

11. The legal fees involve the time of a specialist grade A fee earner charged out at £495 per hour. While the initial work on applications for new leases is fairly standard, it requires a specialist to know what to do and how to spot relevant issues. The law in this area is relatively complex and specialised. Therefore, the Applicant was justified in using what, in other contexts, might be regarded as an expensive lawyer.
12. In correspondence, the Respondent sought to criticise the legal fees for involving a “boiler-plate” draft lease, unrelated to the form of the existing lease, and the valuation fee for involving a desktop valuation without an inspection of the property. However, there is a minimum amount of work to be done in these cases, irrespective of the individual circumstances. The Applicant’s hand was forced by the Respondent’s lack of engagement with their correspondence. They had to go through the relevant statutory procedure so long as the Respondent’s stance had developed no further than the original Notice of Claim.
13. The Tribunal is not required to do a detailed examination of all the costs. The process is a summary one. In the circumstances, the Tribunal is satisfied that the costs claimed by the Applicant are reasonable and recoverable in full.

Name: Judge Nicol

Date: 14th January 2022

Appendix of relevant legislation

Leasehold Reform, Housing and Urban Development Act 1993

Section 60

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.