



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

Case Reference : **LON/OOBC/OC9/2021/107**
Property : **251A Fulwell Avenue**
Applicant : **Malachy Walls**
Representative :
Respondent : **BPT Limited**
Representative : **Winckworth Sherwood LLP**
Type of Application : **Application to determine costs payable under
s.60 of LRHUDA 1993**
Tribunal Member : **Judge Jim Shepherd**
Date of Decision : **18th October 2021**

DECISION

1. In this case the Applicant Malachy Walls (“the Applicant”) has asked the tribunal to determine the costs payable under s. 60 Leasehold Reform, Housing and Urban Development Act 1993 (“The Act”).
2. The Respondent to this application is Syeda Malik (“the Respondent”) she is a solicitor employed by Winkworth Sherwood LLP. The Respondent ought to

have been the other party to the lease extension but neither side have taken issue on this.

3. The sums challenged covered work carried out by the Respondent in preparing and administering an extension of the lease pursuant to the Act. The Applicant is seeking to extend the lease of premises at 251 a Fulwell Ave, Ilford IG5 0RD (the premises). Nothing turns on the history of this lease extension and therefore the facts will not be rehearsed here. Suffice to say that neither party has complied with the directions of Judge Vance following his decision dated 24th August 2021 and therefore the question of deemed withdrawal of the notice is not dealt with in this judgment. Judge Vance also gave the Applicant permission to amend his application to include a challenge to the valuation fee. No further submissions have been received on this from the Applicant therefore the sole basis of his challenge to the valuers fees is contained in his application to amend where he states: “It has come to my attention that the valuation fee is excessively high” and In his statement of case where he says “this is extremely excessive, particularly as the surveyor did not travel to, or visit the property due to covid restrictions. So there was no travel costs of travel time, and there were no valuation costs for time spent at the property. It was purely a paper valuation”.
4. The Respondent provided an invoice for the valuation from Say Property Consulting LLP for £1260. The invoice summarises the work carried out : *assembling comparables, and preparing the report.*

Challenge to solicitor’s fees

5. In his statement of case the Applicant makes a number of complaints in relation to the Respondent’s fees. He says that the fees charged were arbitrary and did not reflect the actual work done. He also says that the fees were excessive in light of the fact that the Respondent was repeatedly carrying out lease extension

work on the properties at Fulwell Avenue. He also says that the work was routine and straightforward with no unusual or complicated aspects.

6. The Applicant makes reduced offers in relation to each of the constituent elements of the solicitor's work, in some cases these offers are considerably reduced. For instance, he offers only £150 for work investigating the claim when the amount charged was £460. Pausing here the tribunal was not generally impressed by the Applicant's arguments in relation to the costs incurred which are largely based on assumption by him and not at all based on any real analysis of the actual work involved. For instance, in relation to the costs of investigating the claim he says the Respondent is very experienced and this is a routine matter. He says that *she claims that she has spent one hour 42 minutes on determination of title and my right to make the application. An experienced fee earner such as of the respondent would not have spent one hour 42 minutes on determination of title, particularly as she is doing these statutory lease extensions on a daily basis. This is clearly exaggerated and excessive.*
7. In fact the tenor of the Applicant's criticisms are more serious than mere exaggeration. He is challenging the professional conduct of the Respondent and suggesting she is dishonest in her claims, alleging she has rounded off her time claims to her advantage and that she has not sent letters she says she has sent. These allegations are based primarily on the fact that the Respondent is an experienced solicitor who it is said would not need to spend the time alleged doing the work.
8. Faced with this application the Respondent was in effect forced to defend her own conduct. She did so with a level of professionalism that one would expect from an experienced solicitor. She did not seek to "trade blows" in response to the serious allegations being made against her. Broadly she states that none of her costs were excessive and were acceptable for this type of lease extension.

9. Section 60 of the Act states the following:

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 [the appropriate tribunal]¹ 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

10. The Respondent’s schedule of costs is at page 55 of the bundle. Those costs are endorsed by her firm Winkworth Sherwood LLP and it is stated that the costs do not exceed the costs which the landlord is liable to pay in respect of the work which this breakdown covers. In a schedule attached to the statement the solicitor’s costs are broken down by date and also by the precise work carried out. The tribunal does not consider that any of that work is either exaggerated, excessive or indeed fraudulently claimed. The Respondent is a senior associate solicitor. Her fees are not unreasonable for the work carried out. The criticisms of the Respondent’s professional conduct are unwarranted and without any proper foundation other than speculation.

Challenge to valuation fees

11. It is correct that the surveyor did not go to the premises and that the valuation was largely a desktop exercise. Many surveyors and valuers will have been doing the same sort of exercise during the global pandemic but few if any will have reduced their fees by over 75% to reflect their failure to attend. The Respondent offers £250 for the valuation fee. This is simply unrealistic. The fees claimed are entirely reasonable and would be expected in the present context.

Summary

12. The Application is dismissed. The Respondent's costs pursuant to s.60 of the Act are reasonable.

Judge Shepherd

18th October 2021

ANNEX - RIGHTS OF APPEAL Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
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 state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.