



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

Case Reference : LON/00AF/LCP/2022/0016
LON/00AF/LCP/2022/0017

Property : 18 Fairfield Road Beckenham Kent
BR3 3LD
16 Fairfield Road Beckenham Kent
BR3 3LD

Applicant : Chancery Lane Investments Ltd

Representative : Moreland Property Group Ltd -
Paul Simon, In House Solicitor
18 Fairfield Road (Beckenham)

Respondents : RTM Company Ltd
16 Fairfield Road (Beckenham)
RTM Company Ltd

Representative : Prime Property Management

Type of Application : For the determination of the
Respondents' liability to pay the
Applicant's RTM costs

Tribunal Members : Tribunal Judge I Mohabir

Date of Decision : 11 April 2023

DECISION

Introduction

1. The Applicant has made two applications under section 88(1) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) for a determination of the liability of the Respondents’ to pay its costs having exercised the right to manage in respect of 16 and 18 Fairfield Road Beckenham Kent BR3 3LD (“the properties”).
2. On or about 31 August 2022, the Respondents served identical claim notices on the Applicant to exercise the right to manage the properties. By a letter dated 12 September 2022, the claim notices were withdrawn by the Respondents.
3. It seems that on or about 12 October 2022, the Respondents served another claim notice in respect of each of the properties, which was met by a counter notice served by the Applicant on 23 November 2022. As the Tribunal understands it, these claim notices were not proceeded with by the Respondents also.
4. By two separate applications dated 4 November 2022, the Applicant applied for a determination of the costs the Respondents should pay pursuant to section 88 of the Act.
5. On 12 January 2023, the Tribunal issued identical directions in respect of each application.
6. Pursuant to paragraph 2 of the directions, the Applicant has provided a schedule of the costs claimed against the Respondents. The legal costs are identical in respect of each property in the sum of £1,575, save for disbursements.
7. The costs mirror the invoices dated 15 September and 23 November 2022 rendered by Moreland Property Group Limited to the Applicant. The Applicant’s schedule of costs omits to include the VAT charged in those invoices. The inference to be drawn is that the Applicant is a VAT registered company and is not entitled to claim VAT from the Respondents, as this can be reclaimed by it. The Tribunal, therefore, proceeds to assess the Applicant’s costs on the basis of the figures contained in the schedules of cost.
8. The work has been undertaken by an in house Solicitor, Mr Simon, employed by Moreland Property Group Limited. He is a Grade A fee earner and claims an hourly rate of £350 plus VAT.
9. The Respondents have not filed or served any statement of case or points of dispute in opposition to the applications.

Section 88

10. This provides:

“(1) A RTM company is liable for reasonable costs incurred by a person who is-

- (a) landlord under a lease of the whole or any part of any premises,*
- (b) ...*
- (c) ...*

in consequence of a claim notice given by the company in relation to the premises.

(2) Any costs incurred by a person in respect of professional services rendered to him by another are to be regarded as reasonable only 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)...

(4)...”

Decision

11. Pursuant to the Tribunal’s directions, the determination of this application took place on 11 April 2023 and was based solely on the documentary evidence filed by the Applicant.

Grade of Fee Earner/Hourly Rate

12. The Tribunal was satisfied that it was appropriate for a Grade A fee earner to deal with the various claim notices that were served by Respondents because this is a highly technical area of law and requires a fee earner with the requisite knowledge and expertise.

13. As to the hourly rate of £350 claimed by Mr Simon, the Tribunal found this to be excessive and, therefore, unreasonable. The Tribunal determined that an hourly rate of £282 per hour was reasonable based on the current guidelines for solicitors’ hourly rates for work carried out by a Solicitor located in the London 3 area. The costs allowed as being reasonably incurred are allowed at this rate.

Costs Incurred

14. It is important to note that the claim notices served by the Respondents raised exactly the same legal and factual issues in relation to the properties. It follows, that the Tribunal was satisfied that the Applicant is not entitled to separately claim costs for both properties, save for

disbursements. This represents a duplication of costs and cannot be said to have been reasonably incurred. Therefore, all of the costs claimed in respect of 16 Fairfield Road are disallowed, save for the disbursement of £9. The Tribunal was satisfied that the attendances claimed in respect of 16 Fairfield Road were sufficient to cover any additional time incurred for the minor amendments to any letters of documents already prepared in respect of 18 Fairfield Road.

15. As to the costs incurred in relation to 18 Fairfield Road, the 1-hour attendance claimed for the claim notice served on 12 October 2022 is reduced by 30 minutes because the review of the title documents from the Land Registry and Companies House had already been incurred and this represents duplication in work. This item is reduced to £141.
16. Accordingly, the costs allowed as being reasonably incurred in relation to 18 Fairfield Road using an hourly rate of £282 is £1,128 plus the disbursement of £36. In relation to 16 Fairfield Road, only the disbursement of £9 is allowed.
17. The total sum of £1,173 is to be paid by the Respondents within 28 days from this decision being issued to the parties.

Fees

18. As the applications have been successful, the Tribunal orders the Respondents to also reimburse the Applicant the sum of £200 within 28 days from issue of this decision, being the fees it has paid to have the applications issued.

Name: Tribunal Judge I Mohabir **Date:** 11 April 2023

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).