



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

**Case Reference** : **CHI/24UC/OC9/2022**

**Property** : **2 Edinburgh House, Crossways Road,  
Grayshott, Hampshire GU26 6HQ**

**Applicant** : **Adrian Gerard Gannon**

**Representative** : **Carpenter & Co, Solicitors (Wallington)  
[PaulV@carpentersolicitors.co.uk](mailto:PaulV@carpentersolicitors.co.uk)**

**Respondents** : **Shahab-Uz Zaman and  
Shaheen Pervez Zaman**

**Representative** : **Setfords, Solicitors (Guildford)  
[nturner@setfords.co.uk](mailto:nturner@setfords.co.uk)**

**Type of Application** : **Landlord's costs new lease - Section 60(1)  
of the Leasehold Reform, Housing & Urban  
Development Act 1993**

**Tribunal Members** : **Judge Paul Letman MBE**

**Date and venue of** : **16 May 2023  
Paper Determination**

**Date of Decision** : **1 June 2023**

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**DECISION ON COSTS  
WITH REASONS**

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## **Introduction**

1. By Application Notice received on 27 October 2022 the Applicant seeks a determination of the costs payable to the Respondents in respect of his concluded claim to a new lease for an extended term of the above mentioned property pursuant to Chapter 2 of Part I of the 1993 Act.
2. Directions were made herein on 31 January 2023 for the sequential service of Statements of Case to include copy bills etc. and the preparation of a bundle. The parties duly complied therewith and have provided as required a Scott Schedule showing the amounts claimed and their rival contentions.
3. According to the said Schedule the Respondents are claiming £5,100 and the Applicant considers that £1,980 is the appropriate amount recoverable.
4. For the purposes of this decision the Tribunal has added its own comments (in blue type) in the said Schedule and the same is duly annexed hereto (hereinafter ‘The Schedule’).

## **Background**

5. By way of brief background, it is noted that the Section 42 Notice of Claim herein was dated 04 March 2022 and proposed a premium of £16,400. The Counter-Notice was dated 13 May 2012 and proposed a premium of £36,087.
6. In the event it appears from the Completion Statement prepared by the Applicant’s solicitors that the parties agreed a premium in the sum of £28,000. The said statement also shows the costs claimed by the Respondents in the sum stated above, and the Applicant’s solicitor’s costs in the sum of £1,360.00 (including VAT and disbursements of £145).
7. The agreed new lease was granted on 24 November 2022. The lease is in short form, incorporating the terms of the original lease dated 19 January 1996 subject to the required amendments contained in the said form.

## **Section 60**

8. For the purposes of considering this application, the tribunal refers to the terms of section 60 of the 1993 Act, which in so far as is presently material provides as follows:

### ***‘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.'*

### **The Principles and Guidance**

9. In *Metropolitan Property Realisations v Moss* [2013] UKUT 415, Martin Rodger QC, the Deputy President, gave the following guidance on the approach to be adopted:

“9. These provisions are straightforward and their purpose is readily understandable. Part I of the 1993 Act is expropriatory, in that it confers valuable rights on tenants of leasehold flats to compel their landlords to grant new interests in those premises whether they are willing to do so or not. It is a matter of basic fairness, necessary to avoid the statute from becoming penal, that the tenant exercising those statutory rights should reimburse the costs necessarily incurred by any person in receipt of such a claim in satisfying themselves that the claim is properly made, in obtaining advice on the sum payable by the tenant in consideration for the new interest and in completing the formal steps necessary to create it.

10. On the other hand, the statute is not intended to provide an opportunity for the professional advisers of landlords to charge excessive fees, nor are tenants expected to pay landlords' costs of resolving disputes over the terms of acquisition of new leases. Thus the sums payable by a tenant under section 60 are restricted to those incurred by the landlord within the three categories identified in section 60(1) and

are further restricted by the requirement that only reasonable costs are payable. Section 60(2) provides a ceiling by reference to the reasonable expectations of a person paying the costs from their own pocket; the costs of work which would not have been incurred, or which would have been carried out more cheaply, if the landlord was personally liable to meet them are not reasonable costs which the tenant is required to pay.

11. Section 60 therefore provides protection for both landlords and tenants: for landlords against being out of pocket when compelled to grant new interests under the Act, and for tenants against being required to pay more than is reasonable.”

10. Further, in considering the parties’ respective arguments on costs, although not bound by the same the tribunal has had regard to the essential guide to reasonableness in relation to contentious costs contained in CPR 44.4(3). This Rule provides, so far as appears presently to be material, that account should be taken of the following factors:

- ‘(b) the amount or value of any money or property involved;
- (c) the importance of the matter to all the parties;
- (d) the particular complexity of the matter or the difficulty or novelty of the questions raised;
- (e) the skill, effort, specialised knowledge and responsibility involved;
- (f) the time spent on the case;
- (g) the place where and the circumstances in which work or any part of it was done ...;

11. Accordingly, I approach the parties’ submissions on costs in the light of the foregoing statutory provisions, principles and guidance.

**The Parties’ Respective Cases**

12. The parties’ respective cases are set out in the Schedule. One of the principal points of difference is in respect of the hourly rates charged, both solicitor and surveyor rates. So far as the solicitor rates are concerned I note that for the purposes of the SCCO, Solicitors’ Guideline Hourly Rates,’ Setfords are within National Grade 1. The Guideline Rates for this Grade are the following exclusive rates (with the relevant experience of the solicitor or legal executive shown in parenthesis):

Band A (over 8 yrs)	Band B (over 4 yrs)	Band C (less)	Band D (trainee)
£261	£218	£178	£126

13. The Respondents rely upon a solicitor's hourly rate of £295, the Applicant contends that the reasonable rate is £250. In support the Respondents point to other tribunal decisions, for example, LON/OOBA/OC9/2022/0106 in which £400 for a grade A fee earner was allowed, as well as the personal service offered by Setfords and the fact that this is relatively complex and specialised work.
14. I accept the points made by the Respondents justifying their rate of £295 per hour plus VAT, this is indeed specialist work and the Guideline Rate of £261 is only a general guide and in any event not far removed from the rate claimed. I also note the higher rates awarded in other decided cases, such as that cited, where those rates for this kind of work are consistently above the guideline rates for the Grade and Band appropriate to each.
15. So far as the valuer's hourly rate of £250 is concerned, this too looks in my view to be eminently reasonable for this kind of specialist work by an experienced valuer employed by a reputable and established surveyors practice such as Carter Jonas. Support may be found in the tribunal decisions for this rate also; in particular, I note the 2021 decision in BG/LON/00AH/OC9/021/0083 concerning a flat in Croydon, in which the valuer's fees were reduced from £350 per hour plus VAT to £250 per hour plus VAT.
16. As for the specific points taken in respect of each item of costs, these are briefly addressed individually by the tribunal's comments (in blue type) in the Schedule. The sum of the costs taken from the Schedule amounts to £2,100 plus VAT for the legal fees and £1,425 plus VAT for the valuer's fees. Reviewing these amounts overall, from experience these figures do not strike the tribunal as disproportionate or otherwise unreasonable nor for that matter too low.
17. In the circumstances, the tribunal determines that the total costs payable by the Applicant to the Respondents under section 60 including VAT are: (a) Legal fees in the sum of £2,520 and (b) Valuer's fees in the sum of £1,710. The total recoverable costs are therefore in the sum of £4,230.00 inclusive of VAT.

Enclosure- The Schedule attached

## **Right of Appeal**

Pursuant to rule 36(2)(c) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (SI 2013/1169) ('the Rules') the parties are duly notified that they have a right of appeal against the decision herein.

That right of appeal may be exercised by first making a written application to this tribunal for permission to appeal under rule 52 of the Rules. An application for permission to appeal must be sent or delivered to the tribunal so that it is received **within 28 days** of the latest of the dates that the tribunal sends to the person making the application:

(a) written reasons for the decision or (b) notification of amended reasons for, or correction of, the decision following a review (under rule 55) or (c) notification that an application for the decision to be set aside (under rule 51) has been unsuccessful.