



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

Case reference : **LON/00BF/LCP/2023/0004**

Property : **46 St James Road, Sutton, Surrey SM1 2TN**

Applicant : **Assethold Limited**

Respondent : **46 St James Road RTM Company Limited**

Type of application : **Determination of costs pursuant to s.88(2)
CLRA 2002**

Tribunal : **Judge Shepherd**

Date of Determination : **31st July 2023**

DETERMINATION

1. The Applicants, Assethold Limited (“The Applicants”) are seeking a determination of costs pursuant to s.88(4) of the Commonhold and Leasehold Reform Act 2002 (“The Act”). This follows a No Fault Right to Manage acquisition by 46 St James Road RTM Company Limited (“The Respondents”). Surprisingly the Respondents have taken no role in the application, failed to follow directions given on 3rd May 2023 and have failed to agree the costs claimed which has necessarily put the Applicants to the cost of applying to the Tribunal.
2. The Respondents were incorporated on 22nd June 2021. Their claim for the RTM was made on 16th August 2021.

3. The Applicants sent a schedule of costs to the Respondents and the Tribunal on 28th May 2023. The solicitors' costs consist of £357.50 on letters and £440 on documents. In addition the managing agents, Eagerstates charge a fixed fee of £600. There is an invoice detailing the breakdown of the managing agent's work and a copy of the management agreement outlining the fee structure. The total sought including VAT was £1667.

4. S.88 of the Act states the following:

88 Costs: general

(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) party to such a lease otherwise than as landlord or tenant, or

(c) a manager appointed under Part 2 of the 1987 Act to act in relation to the premises, or any premises containing or contained in the premises,

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

(2) Any costs incurred by such 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) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before [the appropriate tribunal] only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.

(4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by [the appropriate tribunal].

5. Here the costs claimed by the Applicants are entirely reasonable applying the criteria in subsection (2) and the Tribunal has no hesitation in confirming that the costs are due and should be paid by the Respondents.

Judge Shepherd

31st July 2023

RIGHTS OF APPEAL

1. 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.

2. 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.

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 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.