



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

Case reference : **CAM/38UD/OC9/2023/0004**

Property : **23 Whitelock House, Phyllis Court Drive,
Henley-on-Thames, Oxon RG29 2HU**

Applicant : **Sally Ann Edlmann**

Representative : **William Sturges LLP**

Respondent : **Phyllis Court Members Club Limited (1)
Phyllis Court Residents Association
Limited (2)
National Westminster Bank Limited (3)**

Representative : **Blandy & Blandy for the First Respondent**

Type of application : **An application under section 91(2)(d) of
the Leasehold Reform, Housing and
Urban Development Act 1993 for a
determination as to costs to be paid
under s60 (1) of the Act**

Tribunal members : **Tribunal Judge Dutton**

**Date of
determination** : **26 April 2023**

DECISION

This has been a remote hearing on the papers which has been consented to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because no-one requested the same, and all issues could be determined on paper. The documents that I was referred to are in a bundle of 32 pages, the contents of which we have noted.

Background

1. This is an application made by the applicant leaseholder pursuant to the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”) for a determination of the reasonable costs to be paid under the provisions of sections 91(2)(d) and 60(1) of the Act in respect of the lease extension to 23 Whitelock House, Phyllis Court Drive, Henley-on-Thames, Oxon RG29 2HU (the “Property”).
2. The application is dated 6 January 2023 and amended directions were issued on the same day. The matter was considered by me on 26 April 2023⁴ as a paper determination, relying on the bundle lodged by the Applicant’s solicitors.
3. The bundle contained the application, the Notice of Claim, an email from the Respondent’s solicitors dated 2 December 2022 (page 16 of the bundle) confirming the sums required to complete, (the Completion Statement) showing an agreed premium of £126,000, with costs set out therein. Within the bundle is a Schedule of Objections to the costs claimed and the disbursements, which I have completed. In addition, there is a printout of the time ledger for Blandy & Blandy showing the time spent on various matters associated with the lease extension for the Property, with the hourly rates applicable, which are either £185 per hour or £250 per hour, depending on whether a Grade B or Grade A fee earner carried out the work. From the ledger it appears that Asma Muneer a Grade B solicitor spent 15.5 hours on the case and Pippa Garrod, a Grade A fee earner spent 2.9 hours on the case.
4. Helpfully, by a Summary of Issues in dispute the solicitors for the Applicant agree the costs associated with the conveyancing in respect of the new lease at £1,500 plus VAT as set out on the completion statement sent on 2 December 2022. This takes care of the costs payable under s60(1)(c) of the Act.
5. There was an error in the sum claimed for the freeholders costs associated with the work under s60(1)(a) of the Act, that is to say the “investigation reasonably undertaken of the tenant’s right to a new lease”. On the Completion Statement this is shown as £3,952.50 but by agreement this was an error and the amount should be £3,592.50, plus VAT.
6. In the Summary of Issues the Applicant offers £1,165 plus VAT in respect of the costs payable under s60(1)(a). There does not appear to be any challenge to the Valuer’s fees of £954 inclusive, nor the costs of the solicitors for the second Respondent, Field Seymour Parkes in the inclusive sum of £1,020.

7. The provisions of s60 of the Act are set out below and have been borne in mind by me in reaching this decision.

The tribunal's determination

8. There is no challenge to the hourly rates claimed by the solicitors for the Respondent. In the Summary of Issues the challenge has been directed at the totality of costs on specific days by reference to the Completion Statement. I have noted all that has been said by both parties in the Schedule of Objections to costs and disbursements claimed. Some challenges are, with respect de minimis. I consider that £3,592.50 is a high charge for dealing with a lease extension, even allowing for the added complications in this case and have made reductions as set out on the attached schedule.

8. **The tribunal determines that the costs payable under the provisions of s60(1) of the Act are as set out below, by reference to the challenges made on the Schedule of Objections. I have not considered the objections raised to the costs incurred in dealing with the conveyancing as these have been agreed. In addition, there is no challenge to the other costs which appear on the Completion Statement**

9. To summarise therefore I find that following fees and disbursements are payable by the Applicant

- Solicitors fees of £2174.25 in respect of the costs incurred under s60(1)(a)
- solicitors fees agreed for the conveyancing costs of £1,500
- Vat on these fees of £734.85
- the other fees and disbursements on the Completion Statement are agreed.

Name: Judge Dutton

Date: 26 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).

The relevant law

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.