

FIRST TIER TRIBUNAL

PROPERTY CHAMBER (RESIDENTIAL PROPERTY)

Case Reference: CAM/38UD/OC9/2023/0004

SALLY ANN EDLMANN

Applicant

-and-

PHYLLIS COURT MEMBERS CLUB

First Respondent

-and-

PHYLLIS COURT RESIDENTS ASSOCIATION LIMITED

NATIONAL WESTMINSTER BANK PLC

Other Respondents

SCHEDULE OF OBJECTIONS TO COSTS AND DISBURSEMENTS CLAIMED

General Point	<p>The figures that we considered as being appropriate for the Section 60 expenditure as set out in our application were based on the completion statement figures only. We would mention here that the Section 60(1)(a) and (b) legal costs claimed in the completion statement supplied to us were £3,952.50 where they are only £3,592.50 in the Excel document supplied. We trust that this a simple typing error is responsible for this. The costs of dealing with the new lease are £2,731 in the pdf document supplied but are only £1,500 plus VAT in the completion statement. We have therefore reviewed what we consider as being appropriate based on the actual costs information that has been supplied and so this differs from the figures in our application.</p> <p>Respondent's Reply: It is correct that this was a simple typing error and the Respondent's Section 60 (1) (a) costs are £3,592.50 as per the excel spreadsheet as filed and served so we agree with the £360 reduction in this regard, however, see below in relation to other agreed reductions.</p>
	<u>Section 60(1)(a) and (b) costs</u>
7 July 2021	With the exception of the email to the client to discuss next steps, the work carried out on this date is not disputed. Total costs to be reduced to £240.50 plus VAT – i.e. a reduction of £92.50 plus VAT.
	<p>Respondents' reply: The investigation of the tenant's right to a new lease must include reporting the findings of such investigation to the landlord so costs are reasonable and no reduction agreed.</p>
	Tribunal decision: I agree with the Respondent that these costs are reasonable therefore allow £331.00
27 July 2021	Too much time appears to have been spent on sending out a letter requesting a statutory deposit. The charge for the update email to the client is not agreed. Total costs to be reduced to £111 – i.e. a reduction of £92.50 plus VAT.
	<p>Respondents' reply: The time spent not only included the drafting the letter but also drafting of the Notice to the tenant to request the statutory deposit. The £92.50 plus VAT for the letter and deposit should be included.</p>
	Tribunal decision: I will allow the sum of £166.50 for today, disallowing two emails
11 August 2021	The charge for an email re the Counter Notice date of service is not agreed. Reduce by £37 plus VAT.
	<p>Respondent's reply: 2 x units is reasonable for the email to the intermediate landlord's solicitor as it also dealt with issues in relation to arranging the surveyors visit and updating generally.</p>
	Tribunal decision: I will allow £37

16 August 2021	The charge for time spent considering a joint surveyor instruction is not agreed neither is time spent discussing matters with a colleague. The reference to Phase 1 and Phase 2 apportionments and agreements is not understood and so these charges are not agreed. Reduce by £360 plus VAT.
	Respondent's reply: The time spent considering a joint report to KCC was important due to the separate arrangements with the intermediate landlord when dealing with Phase 1 of the block (Temple House, Charles House, Finlay House, Whitelock House, Swinnerton House, Grandison House, Marmyon House & Molyns House). No reduction should therefore be made.
	Tribunal decision: I will disallow consultations with colleague as that does not, I find, fall within the provisions of s60(2). Total; allowed £254.50
17 August 2021	It is not clear what relevant any of the time spent has to Section 60 matters and so this is not agreed. Reduce by £204.50 plus VAT.
	Respondents' reply: Emails included one to the intermediate landlord's solicitor re their premium apportionment, another to the landlord's surveyor re a potential joint instruction of KCC and then a further email to KCC following up re the valuation. These costs are reasonable under Section 60 (1) (2).
	Tribunal decision: One email to FSP would suffice and I disallow the colleague consultation as before and phone call to client. £92.50 allowed.
18 August 2021	It is not clear how any of the time spent can be considered as Section 60 expenditure, in particular the £25 time spent on 'Section 60 costs' perusal. All this time is not agreed. Reduce by £533 plus VAT.
	Respondents' reply: Supervision by more experienced fee earner, subsequent discussion with fee earner, consideration of query from KCC, calls with more experienced fee earners and email out to Applicant's solicitor constitutes investigation under Section 60 (1) (a). Agreed that perusal of Section 60 costs and email in not recoverable so reduce by £62 plus VAT
	Tribunal decision: As before I do not consider supervision or consulting with a colleague or a text book would fall within s60(2). I will allow £148
19 August 2021	Too much time is spent considering emails and the valuation and the fact that there are separate leases for the flat and garage. £166.50 spent drafting a letter to accompany the Counter Notice is far too high. One hour at £185 plus VAT is sufficient for this work. Reduce by £179.50 plus VAT.
	Respondents' reply: The valuation report for the Respondent is 52 pages long and the time spent for review is reasonable. Similarly, the letters required detailed consideration of the valuation report to draft and the follow up call with

	KCC was also required. The time spent is therefore reasonable. No reduction should therefore be made.
	Tribunal decision: I will allow the sum claimed of £364.50 but bear in mind the time spent on the counter notice
23 August 2021	In view of the £203.50 plus VAT spent on 20 August dealing with the drafting of the Counter Notice, it is not clear how a further £222 plus VAT can have been spent on what appears to be the same subject matter on 23 August. This time is not agreed. Reduce by £222 plus VAT.
	Respondents' reply: Letter with enclosures on 23 August 2021 was to the intermediate landlord. The correspondence on 20 th August was to the Respondent and it is therefore denied that this work was unnecessary. Costs are therefore reasonable and recoverable. No reduction should be made.
	Tribunal decision: I will allow £55.50 being the letter to FSP for approval. The remainder seem duplicated.
24 August 2021	The call with a colleague to discuss the Counter-Notice is not acceptable Section 60 expenditure, neither is an email to the client on some unspecified matter. This time is not agreed. Reduce by £37 plus VAT.
	Respondents' reply: Agreed re call with colleague but the email to the client related to service of the counter notice on behalf of Marlow Road Management Company Limited and is therefore reasonable. Reduce by £18.50 plus VAT
	Tribunal decision: I allow the email to the management company in the sum of £18.50
25 August 2021	This is the date when the Counter Notice was served. It is accepted that some time would have been required to finalise the letter and the Counter Notice and then email and post them, £706 plus VAT for this work is excessive and is not agreed. It is a concern that the time recorded includes discussions with colleagues, diarising key dates and emails with clients that are clearly not relevant Section 60 expenditure. £277.50 plus VAT should have been more than enough time to deal with this. Reduce by £428.50 plus VAT.
	Respondents' reply: Agreed re consulting with colleague, diarising key dates, amending counter notice so reduce by £154.50 plus VAT but the remaining costs incurred on 25 th August 2021 were reasonable and recoverable.
	Tribunal decision: Costs of £706 in one day seem excessive, given the costs incurred on the counter notice previously. I consider that half this amount would be reasonable, which takes into account the Applicants objections I therefore allow £353.
6 September 2021 to 15 February 2022	As the Section 60(1)(c) costs dealing with the grant of the lease have been separately itemised, all of this time is not agreed as it comes after the date on which the Counter Notice was served. Reduce by £240.50 plus VAT

	<p>Respondents' reply: Emails included correspondence with both surveyors in relation to negotiations re the premium. Agreed that emails to the client, consideration of deadlines so agree to reduction of £111 plus VAT.</p>
	<p>Tribunal decision: My understanding is that the costs associated with the conveyancing (S60(1)(c)) are agreed</p>
	<p>Total costs reduction for Section 60(1)(a) and (b) = £2,427 plus VAT</p> <p>Total Costs reduction for Section 60 (1) (a) = £346 plus VAT</p> <p>Total costs reduction: See the decision</p>
	<p><u>Section 60(1)(c) costs</u></p>
General point	<p>It is not disputed that agreeing the format of the new lease to be granted was made complicated by there being separate leases of the flat and the garage. While this would have involved a small amount of additional work, the total sum claimed of £2,731 plus VAT is excessive and is not agreed. It should also be made clear at this point that the terms of the lease were agreed on 2 September 2022 and the signature copy of the lease was issued on 4 October. Completion of the lease took place on 6 December 2022.</p>
3 May 2022	<p>Bearing in mind that nearly two hours drafting time is shown for 26 April, it is considered that a further 54 minutes is excessive and 30 minutes is sufficient. Reduce by £118 plus VAT.</p>
	<p>Respondents' reply:</p> <p>From Respondent Reply. Given unusual complexities, Whilst ultimately it is felt higher costs could have been claimed, the Respondent took a rounded view on the costs at the time of the completion and it appears that the costs being in fact disputed on this relate to only £4. The Respondent is happy to agree to restrict its costs to the £1500 claimed but not to further reduction.</p>
	<p>Tribunal decision:</p>
13 June 2022	<p>Amending the flat lease so that it also referred to the garage would have been a straightforward matter and £324.50 plus VAT for more than an hour's time is excessive. Reduce by £99.50.</p>
	<p>Respondents' reply: Although this is how long was taken due to the odd nature of the combined title, given the above general point, this can be agreed.</p>
	<p>Tribunal decision:</p>

1 August 2022	Considering the Tribunal decision cannot be relevant expenditure and so this is not agreed. Reduce by £65 plus VAT.
	Respondents' reply: The decision needed to be perused to extent it could be relevant to the conveyancing. Given the above general point though, this can be agreed.
	Tribunal decision: This related to sending engrossment to intermediate landlord and trying to agree with tenant solicitors date for agreement of terms. No Reduction agreed but see general point
16 September 2022	£162.50 for an email and some very minor amendments is too high. Reduce by £97.50.
	Respondents' reply: Given the above general point though, this can be agreed.
	Tribunal decision:
3 October 2022 and 4 October 2022	It is unclear who these emails are to and how they can relate to Section 60 expenditure and so this charge is not agreed. Reduce by £130 plus VAT.
	Respondents' reply: This related to sending engrossment to intermediate landlord and trying to agree with tenant solicitors date for agreement of terms. No Reduction agreed.
	Tribunal decision:
10 October 2022 to 6 December 2022	During this period the signed leases were returned, a completion statement was prepared and completion took place. These are all basic administrative matters and so it is a concern that the time claimed is £715 plus VAT. This is excessive and it is not agreed that it is covered by Section 60. One hour of time is permissible, although this must be at the £185 an hour chargeout rate and not the £325 claimed. Reduce by £530 plus VAT.
	Respondents' reply: There is a lot of administration in ensuring we hold documents from three separate parties above and beyond the Tenant and of course keeping the tenant updated. Given the general point though this can be agreed.
	Tribunal decision:

9 December 2022 to 16 December 2022	It is a concern that costs are being claimed for work carried out after the lease was completed on 6 December 2022. All this time is clearly not covered by Section 60 and none of it is agreed. Reduce by £195 plus VAT.
	Respondents' reply: Accounting to client and intermediate landlord is rather the point of the conveyancing process together with the sending on of documents to correct places. No reduction agreed.
	Tribunal Decision:
	Total costs reduction for Section 60(1)(c) and (b) = £1,231 plus VAT
	Total costs reduction for Section 60 (1) (c) should be zero bringing retaining the amount claimed as £1500 plus VAT. If reducing from the schedule provided then £2731 plus VAT then a reduction of £1231 plus VAT again retaining the amount claimed as £1500 plus VAT
	Applicant's total costs reduction is therefore: £2,427 + £1,235 = £3,662 plus VAT Respondent's total costs reduction is therefore: £346 + £1,231 = £1,557 plus VAT

Prepared by William Sturges LLP as solicitors for the Applicant on 27 March 2023.

Reply prepared by Blandy & Blandy LLP as solicitors for the Respondent on 31 March 2023.

