



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

Case Reference : **LON/00AF/LCP/2023/0015**

Property : **47 Manor Road, Beckenham, Kent,
BR3 5JB**

Applicant : **Assethold Limited**

Representative : **Scott Cohen Solicitors Limited**

Respondent : **The Manor House MGMT Co RTM
Company Limited**

Representative : **N/A**

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 : **8 May 2023**

DECISION

Introduction

1. The Applicant has made an application under section 88(4) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) for a determination of the liability of the Respondent to pay its costs having exercised the right to manage in respect of 47 Manor Road, Beckenham, Kent, BR3 5JB (“the property”).
2. By a claim notice dated 15 May 2023, the Respondent exercised its right to acquire the right to manage the property. By a counter notice dated 15 June 2023, the Applicant variously denied that the Respondent was so entitled. The Tribunal was not told whether the Respondent did or did not acquire the right to manage. However, this does not matter because in any event the Respondent is liable for the Applicant’s costs under section 88(1) of the Act (see below), as they have been incurred “*in consequence of a claim notice being given*” by it.
3. The costs claimed by the Applicant are its legal costs in the sum of £705 plus VAT of £141 plus a disbursement of £6.85 for postage, totalling £852. 85. In addition, the Applicant is claiming the costs of the managing agent in the sum of £600 including VAT.
4. On 1 December 2023, the Tribunal issued directions in respect of the application, which the Applicant has complied with. The Respondent has not complied with any of the directions nor has it filed or served any evidence in this case.

Section 88

5. 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

6. 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.

Legal Costs

Grade of Fee Earner/Hourly Rate

7. The attendances claimed are 1.3 hours for a Grade A fee earner at an hourly of £300 and 1.8 hours for a Grade D fee earner at an hourly rate of £175. What is apparent is that the work carried out by the Grade A fee earner was a consideration of the claim notice, the relevant RTM documents and the drafting of the counter notice. The remaining work was carried out by the Grade D fee earner.
8. The Tribunal was satisfied that it was appropriate for a Grade A fee earner to deal with the claim notice, RTM documents that were served by Respondent because this is a highly technical area of law and requires a fee earner with the requisite knowledge and expertise to do so as well as the drafting of the counter notice. The Tribunal noted the Grade A's attendances were limited to this work, with the remained being carried by the Grade D fee earner.
9. As to the hourly rates of £300 and £175 respectively, the Tribunal found that they are in line the current guidelines for solicitors' hourly rates for work carried out by these grade of fee earner located in the London 3 area and are, allowed as claimed.

Costs Incurred

10. The Tribunal found the total attendances of just over 3 hours as well as the disbursement of £6.85 incurred for service of the counter notice was reasonably incurred.
11. Accordingly, the Applicant's legal costs allowed is £852.85 including VAT and disbursements.

Managing Agent's Costs

12. These are claimed by the Applicant as a bare figure of £600 including VAT. There is no invoice or breakdown for the figure. The only explanation can be found at paragraphs 7-10 in the Applicant's statement of case. However, this only provides a generic explanation of the role and duties of a managing agent in these circumstances. Materially, it does not provide any explanation of the actual work carried out the managing agent in this instance, the charging rate and how any such costs are contractually recoverable against the Applicant, for example, by disclosing any management agreement.

13. Therefore, the Tribunal found that these costs are irrecoverable by the Applicant and/or were not reasonably incurred.
14. Accordingly, the Tribunal orders the Respondent to pay the Applicant's legal cost of ££852.85 within 28 days from the issue of this decision.

Fees

15. As the application has been successful, the Tribunal also orders the Respondent to also reimburse the Applicant the sum of £100 within 28 days from issue of this decision, being the fees it has paid to have the application issued.

Name: Tribunal Judge I Mohabir **Date:** 8 May 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).