



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

**Case reference** : **LON/00AP/LCP/2022/001**

**Property** : **7 Ruskin Road, London N17 8ND**

**Applicant** : **Assethold Limited**

**Representative** : **Scott Cohen Solicitors Limited**

**Respondent** : **7Ruskin RTM Company Ltd**

**Representative** : **N/A**

**Type of application** : **Application to decide the costs to be paid by an RTM company under s.88(4) of the Commonhold and Leasehold Reform Act 2002**

**Tribunal member(s)** : **Judge Tagliavini  
Ms S L Phillips MRICS**

**Venue** : **10 Alfred Place, London WC1E 7LR**

**Date of Directions** : **14 June 2022**

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**DECISION**

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## **The tribunal's summary decision**

- (1) The tribunal finds the reasonable costs payable by the respondent to the applicant in respect of its claim pursuant to s.88(4) Commonhold and Leasehold Act 2002 are £1,556.22. This sum to be paid within 28 days of the date of this decision.
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## **The application**

1. This is an application under section 88(4) of the Commonhold and Leasehold Reform Act 2002 ("the Act"), to decide the costs payable by a Right to Manage ('RTM') company.
2. In support of the application the tribunal was provided with a bundle of 116 pages to which the tribunal referred in its paper determination as requested by the applicant. An oral hearing was not requested by either party.

## **Background**

3. On 13 July 2021, the respondent issued a RTM claim notice. A counternotice was served by the applicant challenging the validity of the claim notice. Subsequently, no application was made by the respondent to the tribunal seeking a determination on its claim to acquire the RTM.
4. Consequently, the applicant now seeks its costs of the failed/withdrawn notice of claim payable pursuant to s. 88(1) of the Act and meet the test of reasonableness as set out in s.88(2) of the Act.

## **The applicant's case**

5. In a Summary Assessment of Costs dated 14 March 2022, the applicant claimed the inclusive sum of £1,556.22. This included the services of a Grade A fee earner at £275 per hour and the management fees of £300 plus VAT. The time spent on documents amounted to £467.50. The applicant supported this claim for costs with invoices and a Statement in Response dated 20 April 2022 challenging the respondent's assertions as to the unreasonableness of the costs claimed.

## **The respondent's case**

6. In an undated and unsigned Respondent's Statement of Case, the respondent asserted that a reasonable sum in costs amounted to £503.22. The respondent disputed the use of a Grade A fee earner and the amount of time they spent as well as the inclusion of managing agent's fees as not being within the scope of the application and unreasonable in amount.

7. In reaching its figure for costs the respondent reduced the amount of time spent on each element and asserted that all the Notices relied upon by the applicant were generic in nature and readily available to its legal representatives. In support of its arguments the respondent also relied upon a number of previous decisions of the tribunal including *The Executors of the late Allen Reece v 50 York House RTM Co Ltd* LON/00AR/LCP/2020/0004P and *Assethold Ltd v 55 Penge Road RTM Company Limited* LON/00AH/LCP/2021/0010. The respondent submitted that the application for a 'right to manage' had not been complex as it concerned a single building containing 3 flats and was without complications.
8. The respondent also referred to the ongoing county claim challenging the applicant's purchase of the freehold of the subject property and the claim for an order of sale to the respondent. The respondent therefore requested a 'stay' of this application for costs pending the outcome of the county court proceedings. The respondent also challenged the applicant's right to a refund of the tribunal fees as it had not sort to negotiate with the respondent prior to the application for costs being made.

### **The tribunal's decision and reasons**

9. The tribunal finds the reasonable costs payable by the respondent to the applicant in respect of costs claimed pursuant to s.88(4) Commonhold and Leasehold Act 2002 is £1,556.22.
10. The tribunal is satisfied that the costs incurred by the applicant in dealing with the applicant's are reasonable in amount and in extent. The tribunal is satisfied that the applicant has properly accounted for the costs incurred and has demonstrated its obligation to pay those costs.
11. The tribunal accepts that the applicant has not produced a Schedule of Fees payable to the managing agent in respect of additional fees, the tribunal drawing upon its experience in similar applications, determines both that the use of and the fees charged by the managing agent are reasonable and payable.
12. The tribunal determines that it is reasonable for the applicant to seek to rely upon its long standing solicitors of choice and the services of a Grade A fee earner. The tribunal finds although pro forms may be accessed and utilised, the validity of any claim has to be carefully checked and any pro form as checked and adjusted to the circumstances of any individual application. The submission by the respondent that the use of pro forma documentation reduces costs in the manner suggested is not accepted by the tribunal.
13. The tribunal is not bound to follow previous decisions of differently constituted First-tier tribunals and instead looks at the circumstances of the particular application under consideration, although previous tribunal decisions can provide a useful tool.

14. The tribunal does not consider it is appropriate to 'stay' this application for costs pending the county court claim seeking the applicant's sale of the subject property to the respondent, as the outcome of the latter is speculative. In any event the respondent could have awaited the outcome of that application before issuing a notice of claim to a RTM. The tribunal finds that the applicant is entitled to its reasonable costs of the respondent's unsuccessful attempt to acquire the right to manage.
15. As an application for the reimbursement of the tribunal's fee has not been included the tribunal makes no decision on this matter.
16. In conclusion the tribunal determines the sum of £1,556.22 is payable by the respondent to the applicant with 28 days of the date of this decision.

Name: Judge Tagliavini

Dated: 14 June 2022

### **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).