



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

Case Reference : CHI/21UF/LCP/2023/0003

Property : 34-36 Cliffe High Street, Lewes BN7 2AN

Applicant : Santry Holdings Ltd

Representative : Dean Wilson LLP

Respondent : Cliffe High Street (Lewes) RTM Co Ltd

Representative : Stephen Rimmer LLP

Type of Application : Commonhold and Leasehold Reform Act
2002 – RTM s.88(4) Costs

Tribunal Member : Judge Mark Loveday

**Date and venue of
Hearing** : Determination on the papers without a
hearing

Date of Decision : 8 July 2024

DETERMINATION

1. The applicant landlord seeks a determination of the statutory costs due to it under s.88(4) Commonhold and Leasehold Reform Act 2002 following expiry of a Claim Notice.
2. The Applicant gave a Claim Notice on 16 December 2022 claiming the right to manage. The respondent gave a counter-notice on 23 January 2023 opposing the claim on various grounds. The claim expired under s.87(1)(a) of the 2002 Act after no application was made to the tribunal for a determination that the Respondent was entitled to exercise the right to manage.
3. Section 88 provides as follows:

“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”.

4. The Applicant originally sought costs of £5,906.40, comprising (a) legal fees of £2,527 + VAT (b) disbursements of £18, and (c) expert fees of £2,380 + VAT. But on review, it reduced the claim to £4,486.80 by limiting the expert's fees to £1,190 + VAT: see Statement of Case dated 16 May 2024.
5. The Applicant used a specialist regional solicitor based in Brighton, supervising a paralegal. The rate charged to the client was £310/hr for a partner and £190/hr for the paralegal. The Respondent did not challenge the time-costed hourly rates.

6. The Respondent provided a Schedule of Disputed Costs, and the Tribunal deals with the objections in turn:
- a. Advising client by email and by phone regarding RTM qualification and objections (10 units on 10, 16 and 17 January 2023). 37 mins total for this work is reasonable, given the number of objections raised.
 - b. Review of lease terms by paralegal (3 units on 18 January 2023). This did not duplicate work carried out by the partner in drafting the counter-notice.
 - c. Detailed instructions by the partner to the surveyor and discussing these instructions with the client and the surveyor (7 units on 17-18 January 2023). The Tribunal considers 2 units of work by the partner should be disallowed, covering discussions with the client. Such discussions were unnecessary.
 - d. Emails to client and surveyor regarding inspection and issues arising (5 units on 19 January 2023). 12.30 minutes for drafting emails is reasonable.
 - e. Emails to client and surveyor regarding instructions for counter-notice. (3 units on 23 January 2024). 12.18 minutes for instructions is reasonable, given the importance of having formal instructions.
 - f. Drafting the counter-notice (4 units for drafting and 5 further units for “finalising” it on 23 January 2024). 24.54 minutes for drafting a counter notice is reasonable, given the importance of the notice and the various grounds of objection to the claim.

In short, the Tribunal reduces the costs by 2 units of work by the partner (£62).

7. This reduces the legal costs to £2,465 + VAT. The disbursements of £18 and the expert fees of £1,190 + VAT are not challenged.
8. The Tribunal therefore determines the reasonable costs payable to the Applicant under s.88(4) of the Commonhold and Leasehold Reform Act 2002 are £4,403.

Judge Mark Loveday

8 July 2024

RIGHTS OF APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at rpsouthern@justice.gov.uk being the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.
3. If the person wishing to appeal does not comply with the 28 day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking