



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

Case reference : **LON/00AK/LCP/2024/0603**

Property : **Antlia Court, 57 Hadley Road, Enfield
EN2 8LA**

Applicant : **Knightspur Homes Ltd**

Representative : **Wallace LLP**

Respondent : **The Directors of Antlia Management
Ltd listed in the application**

Representative : **None**

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 members : **Judge N O'Brien, Mr A Fonka FCIEH**

Date of Decision : **24 February 2025**

**Date of Reviewed
decision** : **25 March 2025**

Determination

Decision of the Tribunal

1. The tribunal determines that the amount payable by the Respondents to the Applicant in respect of the Landlord's costs payable by the RTM company will be the sum of £1,700 plus VAT of £340, plus disbursements of £81 with VAT thereon of £16.20
2. The above sum is to be paid within 28 days of this determination.

THE PROCEEDINGS

1. By an application sent to the Tribunal on 24 September 2024 the Applicant seeks its costs following the withdrawal of the Respondents' claim notice seeking to acquire the right to manage the premises known as Antlia Court 57 Hadley Court, Enfield EN2 8LA served pursuant to Part 2 of the Commonhold and Leasehold Reform Act 2002 (The 2002 Act).
2. Directions were issued on 14 November 2024 which listed the matter for a paper determination in the week commencing 24 February 2025 unless one or both of the parties requested an oral hearing before 15 December 2024. No request was made for an oral hearing and the matter has been determined on the papers. The Applicant has filed a 145-page bundle for use by the tribunal containing the Applicant notice and the parties respective submissions on costs.

The Background

3. The Respondents were members of Antila Management Ltd, a company which had been incorporated for the purpose of acquiring the right to manage the premises pursuant to Part 2 of the 2002 Act. On 23 November 2023 the company served a claim notice on the Respondent pursuant to section 79 of the 2002 Act. Following receipt of the notice the Applicants instructed their solicitors Wallace LLP to represent them. On 15 December 2024 the Applicant's solicitors sent a counter-notice disputing the company's entitlement to acquire the right to manage the premises on the grounds that the company was not an RTM company in that its Articles of Association did not make any reference to the acquisition and exercise of the right to manage the premises as required by s.72 of the 2002 Act. Subsequently a director of the company, a Mr Barry Boas, emailed the Applicant's representatives stating that '*we will now withdraw the claims notice dated 23 November 2023*'. The company was wound up in August 2024.
4. On 21 April 2024 Applicant's legal representatives served a schedule of costs totalling £2887.20 on the Respondents. This is based on 5 hours work at £465 per hour, VAT of £465, and disbursements of £81.00 plus VAT thereon of £16.20. The Respondents did not in principle dispute their liability to pay the costs but could not agree the amount payable to the Applicant.

The Legal Framework

5. Section 88 of the 2002 Act 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) party to such a lease otherwise than as landlord or tenant, or
Ia 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.

6. Section 89 of the 2002 Act provides

(1) This section applies where a claim notice given by a RTM company—

(a) is at any time withdrawn or deemed to be withdrawn by virtue of any provision of this Chapter, or

(b) at any time ceases to have effect by reason of any other provision of this Chapter.

(2) The liability of the RTM company under section 88 for costs incurred by any person is a liability for costs incurred by him down to that time.

(3) Each person who is or has been a member of the RTM company is also liable for those costs (jointly and severally with the RTM company and each other person who is so liable).

The Parties submissions

7. The Respondents' submissions are set out in a letter sent to the tribunal by a former director of the company dated 4 December 2024. The letter sets out the background to the initial application and the Respondents' reasons for making it. They consider that the costs are unfair and unreasonable. They consider that the hourly rate is too high and take issue with the Applicant's instruction of a firm of solicitors based in central London. They referred the tribunal to the Guidelines for the Summary Assessment of Court Costs published by HMCTS. They consider that some of the work undertaken by the Applicant's representative prior to the notice of withdrawal was unnecessary, and

that they should not have to pay for any work undertaken following the withdrawal of the notice.

8. The Applicant has filed a lengthy statement in response. They submit that the email indicating that the claim notice would be withdrawn was not clear as to whether it was being withdrawn immediately or at a later date. They accept that it would in any event be deemed to be withdrawn by 14 February 2024. They do not accept that the guideline hourly rates are of any application and submit the Applicant was entitled to instruct their choice of specialist firm with particular expertise in this area. They submit that the Respondent's rationale for seeking the right to manage is not relevant. They further submit that reasonable costs in this context is akin to indemnity costs under the Civil Procedure Rules, however in *Triplerose Ltd v Mill House RTM Co Ltd [2016] UKUT (LC) 80* the Upper Tribunal doubted whether the indemnity principle has any role to play in the assessment of reasonable costs under s.88 of the 2002 Act.

The Decision of the Tribunal

9. We assess the costs in the sum of £1,700, plus VAT and disbursements of £81 payable with VAT thereon of £16.20 within 28 days of this determination.

Reasons for the Decision

10. As regards the time spent, we do not consider that there was any ambiguity in the Respondent's email dated 4 January 2024; it clearly states that they intended to withdraw the notice 'now' i.e. with immediate effect. Consequently the Respondents are not liable for any costs incurred after that date (section 89(2) of the 2002 Act). This reduces the chargeable time recoverable to 4 hours. Taking a 'stand back' approach, 4 hours does not seem an unreasonable amount of time for the Applicant's solicitors to have spent on this matter up to and including service of the counter-notice. We do not accept the suggestion that it was unreasonable for the Applicant's solicitor to consider photos and plans of the property as part of their investigations into the validity of the notice, and we note that this was done before the Articles of Association were sent by the Respondent.
11. As regards the hourly rate, we accept that the background to the Respondents' attempt to acquire the right to manage will not be relevant. While we accept that the Guidelines Hourly Rates are not applicable in tribunal proceedings they do provide a useful crosscheck. The Applicant submits that the correct hourly rate pursuant to the Guidelines is the London 1 rate of £566 per hour. However that rate is the 2025 rate applicable to 'very heavy corporate and commercial work' which is not the case here. The hourly rate for London 2 in 2024 was £398 for a Grade A solicitor. We do recognise however that this is a specialist area and that fees will be higher. We consider that a reasonable hourly rate work of this nature, undertaken by a Central London firm, to be £425 per hour

for a Grade A fee earner. We do not consider that it was unreasonable for the matter to be handled by a Grade A fee earner, noting that any solicitor of more than 8 years' experience is deemed to be Grade A.

~~12. It is unclear why VAT would be chargeable and recoverable *inter partes* on the sole disbursement being the Land Registry fee, and we disallow this cost.~~

12. VAT is payable on the Land Registry fee in the sum of £16.20 pursuant to the case of *Brabners LLP v HMRC* [2017] UKFTT TC 06093

Name : Judge N O'Brien

24 February 2025

Reviewed and Amended 25 March 2025

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).

