



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

Case Reference : **MAN/00EQ/OC9/2022/0001**

Property : **168 Caldby Road
Handforth
Wilmslow
Cheshire
SK9 3BS**

Applicant : **Gray's Inn Investments Limited**

Representative : **Stevensons Solicitors**

Respondent : **Sally Claire Jolleys**

Representative : **N/A**

Type of Application : **Leasehold Reform, Housing and
Urban Development Act 1993 –
s91(2)(d)**

Tribunal Members : **Judge J Holbrook
Regional Surveyor N Walsh**

**Date and venue of
Hearing** : **Determined without a hearing**

Date of Decision : **6 March 2024**

DECISION

DECISION

The amount of the costs payable by the Respondent under section 60(1) of the Act is £2,518.80.

REASONS

Introduction

1. The Applicant in this case, Gray's Inn Investments Limited, is the freeholder of 168 Caldý Road, Handforth, Cheshire SK9 3BS ("the Property") and the Respondent is the current long leaseholder, Ms Sally Claire Jolleys.
2. In February 2022, the Applicant applied to this Tribunal under section 91(2)(d) of the Leasehold Reform, Housing and Urban Development Act 1993 ("the Act") for a determination of the reasonable costs payable by Ms Jolleys under section 60(1) of the Act. The application was made following the deemed withdrawal of a lease extension claim relating to the Property under section 42 of the Act.
3. The application was initially determined by this Tribunal on 26 September 2022. However, by virtue of the Applicant's subsequent appeal to the Upper Tribunal (Lands Chamber), that determination was set aside and the Upper Tribunal substituted its own decision that Ms Jolleys is liable to pay the Applicant's costs under section 60 of the Act. The matter was remitted to this Tribunal for the costs claimed by the Applicant to be assessed.¹
4. The parties were then notified that the Tribunal proposed to make that assessment on the basis of their written submissions alone, and they were offered an opportunity to supplement the representations they had made previously. The Applicant confirmed that it had nothing to add to the submissions it had made in May 2022. For her part, Ms Jolleys simply drew attention to the fact that, in its September 2022 decision, the Tribunal had found that she had no liability to pay the Applicant's costs under section 60 of the Act. However, it is important that Ms Jolleys realises that that decision has since been set aside (or "overturned") on appeal, and that the Upper Tribunal has ruled definitively that she is liable to pay such costs: the only question which remains to be decided now is how much she must pay in this regard.
5. Accordingly, we have assessed the Applicant's costs having considered the written representations and supporting documentary evidence provided by the parties in 2022, but without holding a hearing. Rule 31 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 permits a case to be dealt with in this manner provided that

¹ See *Gray's Inn Investments Limited v Sally Claire Jolleys* [2024] UKUT 2 (LC).

the parties give their consent (or do not object when a paper determination is proposed). In this case, the parties have not objected. Moreover, having reviewed the parties' submissions, we are satisfied that this matter is indeed suitable to be determined without a hearing: although Ms Jolleys is not legally represented, the issues to be decided have been clearly identified and the determination we must make does not depend upon disputed questions of fact.

Law

6. Section 60(1) of the Act provides that:

Where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the reasonable costs of and incidental to any of the following matters, namely–

- (a) any investigation reasonably undertaken of the tenant's right to a new lease;*
- (b) any valuation of the tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56;*
- (c) the grant of a new lease under that section;*

but this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

7. Section 60(2) provides the following additional safeguard for tenants:

For the purposes of subsection (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable 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.

8. It is made clear by section 60(5) that a tenant is not liable under the section for any costs which a party to any proceedings before the Tribunal incurs in connection with those proceedings.

9. The purpose and effect of the Act's provisions on the reimbursement of costs was considered by the Upper Tribunal (Lands Chamber) in *Metropolitan Property Realizations Limited v Moss* [2013] UKUT 0415 (LC). At paragraphs 9 – 11 of his judgment in that case, the Deputy President described the statutory provisions in the following terms:

“These provisions are straightforward and their purpose is readily understandable. Part I of the 1993 Act is expropriatory, in that it confers valuable rights on tenants of leasehold flats to compel their landlords to grant new interests in those premises whether they are willing to do so or not. It is a matter of basic fairness, necessary to

avoid the statute from becoming penal, that the tenant exercising those statutory rights should reimburse the costs necessarily incurred by any person in receipt of such a claim in satisfying themselves that the claim is properly made, in obtaining advice on the sum payable by the tenant in consideration for the new interest and in completing the formal steps necessary to create it.

On the other hand, the statute is not intended to provide an opportunity for the professional advisers of landlords to charge excessive fees, nor are tenants expected to pay landlords' costs of resolving disputes over the terms of acquisition of new leases. Thus the sums payable by a tenant under section 60 are restricted to those incurred by the landlord within the three categories identified in section 60(1) and are further restricted by the requirement that only reasonable costs are payable. Section 60(2) provides a ceiling by reference to the reasonable expectations of a person paying the costs from their own pocket; the costs of work which would not have been incurred, or which would have been carried out more cheaply, if the landlord was personally liable to meet them are not reasonable costs which the tenant is required to pay.

Section 60 therefore provides protection for both landlords and tenants: for landlords against being out of pocket when compelled to grant new interests under the Act, and for tenants against being required to pay more than is reasonable."

Discussion and conclusions

10. The Applicant claims solicitor's costs of £2,259 and valuation costs of £714 (both amounts being inclusive of VAT where applicable). Ms Jolleys has previously expressed the view that these costs are "excessive and do not represent the work undertaken". However, she has not further particularised her objections to the Applicant's claim.
11. Dealing first with the valuation costs, we note that, on 17 August 2018, the Applicant was invoiced by The Freehold Group Limited for £595 plus VAT in respect of a valuation report prepared in connection with the lease extension claim. In principle, such costs are recoverable under section 60 of the Act, and the amount claimed in this case is within the range of charges which, in our experience, a landlord would reasonably expect to incur in a case such as this. It is therefore payable by Ms Jolleys.
12. Turning to the solicitor's costs, we note that the claim comprises the following four elements:
 - A. £980.50 for 3.7 hours work in connection with the notice of claim;
 - B. £874.50 for 3.3 hours work preparing a new lease;
 - C. £371 in respect of VAT; and
 - D. £30 in respect of disbursements.
13. Elements A and B are obviously calculated by reference to the time which the Applicant's solicitor spent dealing with this matter. The

resulting charges therefore give rise to two questions: 1) is an hourly charging rate of £265 plus VAT reasonable in the circumstances of this case? 2) Is the amount of time charged reasonable for the work which needed to be done?

14. The Applicant's solicitor is G N Stevenson. Mr Stevenson is a solicitor who has many years post-qualification experience and who has considerable expertise in leasehold enfranchisement cases. He is a "Grade A fee earner" for the purposes of the Guideline Hourly Rates for Solicitors. Mr Stevenson's practice is based in Dereham, Norfolk.
15. The Applicant was plainly entitled to instruct a solicitor of Mr Stevenson's experience and expertise to act for it in this matter, and this will naturally be reflected in the legal costs incurred. The hourly rate claimed for Mr Stevenson's services is £265, which is less than the current Guideline Hourly Rate for a Grade A fee earner in areas including Dereham: £272. Nevertheless, the work in question was carried out in 2018-19, when the relevant Guideline Hourly Rate was no greater than £255. We consider this to be the appropriate rate on which to base the present assessment, being the rate which we believe a landlord would reasonably expect to pay in similar circumstances.
16. The Applicant has provided a lengthy itemised list of the standard tasks which are routinely performed on a landlord's behalf following receipt of a lease extension claim, together with a breakdown of the 3.7 hours actually spent dealing with the notice of claim and counter-notice in this case. Whilst recognising that (as is standard practice) the time claimed includes a notional period to facilitate the making of a unit charge for routine letters, we nevertheless consider that 3.7 hours work is more than might reasonably be expected for a matter of this kind: it does not appear that the case gave rise to any unusual or particularly complex issues. Particularly in view of Mr Stevenson's considerable experience in dealing with similar cases, therefore, we consider that a landlord might reasonably expect these standard tasks to have been completed in no more than 2.5 hours in a case such as this.
17. The Applicant acknowledges that the new lease was never completed in this case. However, it rightly asserts that section 60 of the Act nevertheless entitles it to recover the legal costs incurred in the preparation of that lease (the claim is for 3.3 hours work in this case). We accept that this is a skilled task which requires careful and detailed consideration, and we also accept that the time claimed for it in this case is not unreasonable.
18. As far as the minor disbursements are concerned (£6 for Land Registry fees and £24 for postage costs), there is no indication that these costs are unreasonable.
19. Accordingly, we find that the following solicitor's costs (totalling £1,804.80) are payable under section 60 of the Act:

- A. £1,479 for 5.8 hours work by Mr Stevenson;
 - B. £295.80 in respect of VAT (we note that the Applicant is a property company which is unable to recover VAT); and
 - C. £30 in respect of disbursements.
20. The total costs payable by Ms Jolleys to the Applicant under section 60 of the Act therefore amount to £2,518.80.

Signed: J W Holbrook
Judge of the First-tier Tribunal
Date: 6 March 2024