



Residential  
Property  
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE  
DECISION OF THE LEASEHOLD VALUATION TRIBUNAL**

**Leasehold Reform, Housing and Urban Development Act 1993 section 60**

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**LON/00AC/OC9/2009/0051**

**Premises:** 9 Carmarthen Green, London NW9 7RQ

**Landlord:** Sinclair Gardens (Kensington) Ltd

**Tenant:** Mr Kevin Joseph Reid

**Tribunal:** Adrian Jack (Chairman), Mr B Collins FRICS,

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1. By an application dated 4th June 2009 the Applicant applied to the Tribunal for the determination of the costs payable by the tenant to the landlord pursuant to section 60 of the Leasehold Reform, Housing and Urban Development Act 1993. In the event the valuation fees have been agreed. The only item in dispute is the legal costs.
2. On 10th (or possibly 18th) March 2008 the tenant applied under section 42 of the 1993 for a lease extension. The terms were ultimately agreed, save for the legal costs, and the grant of the lease extension completed in about April 2009.
3. The amount of legal costs claimed by the landlord comprised £952.20 (£828.00 plus £124.20 VAT) in respect of the notice of claim and £780.27 (£678.50 plus £101.77 VAT) in respect of the grant of the new lease. The tenant offered £450.00 in respect of the notice of claim and £500 in respect of the conveyancing, in each case plus VAT. The difference is thus £639.97, which is being held by the tenant's solicitors, Messrs Lawrence Stephens, pending this determination by the Tribunal. The £950 plus VAT was paid on completion.
4. In his response to the landlord's case, Mr Kosky on the tenant's behalf submits that the investigation charges should be £420 and the conveyancing charges £345, in each case plus VAT. These are smaller figures than those originally proposed in open correspondence and paid on completion.
5. Under section 60(1) of the 1993 Act the tenant is obliged to pay the landlord's "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 flat... [and] (c) the grant of a new lease..."

6. In the current case the landlord instructed Mr Paul Chevalier to act on its behalf. Mr Chevalier is a solicitor in sole practice in Chessington in Surrey. His charge-out rate is £230 per hour. He was admitted in 1974 and is very experienced in leasehold enfranchisement matters.
7. After service of the tenant's notice, Mr Chevalier took instructions from his client, considered the lease and office copy entries, considered the tenant's notice, instructed the valuer, drafted the counter-notice, considered the valuation and discussed it with the client. He spent a total of three hours on this aspect of the case and also wrote four letters out and held two telephone attendances, for which he charged a further 36 minutes of his time. On the conveyancing he spent 2 hours 45 minutes, plus two letters out for which he charged a further 12 minutes of his time.
8. Mr Kosky on the tenant's behalf submits that three hours for investigating the tenant's entitlement to a lease extension is excessive, that the hourly rate was excessive (some £72 per hour more than the rate for a Grade C fee earner under the Supreme Court Costs Office guidance), that the cost of preparing a counternotice is irrecoverable and that the solicitor's costs of instructing a valuer are irrecoverable. As regards the conveyancing costs, Mr Kosky submits that 1.5 hours at £230 per hour should be sufficient.
9. In our judgment it is well established that a landlord is not obliged to seek out the cheapest solicitor. Mr Chevalier is a solicitor experienced in this complicated area of law. £230 per hour is in our judgment reasonable for someone of his experience and based in Surrey. There was no requirement for the landlord to use a Grade C fee earner. The rates for contentious matters in the High Court are not determinative of what might be reasonable costs in a non-contentious matter.
10. We disagree with the tenant's contention that the costs of preparing a counternotice are irrecoverable. They are a key step incidental to the grant of a new lease. The contrary has, so far as the Tribunal is aware, never been previously suggested. Likewise the costs associated with the instruction of a valuer are incidental to the obtaining of a valuation.
11. In our judgment 3 hours 36 minutes is reasonable as is the charge-out rate.
12. Similarly in relation to the lease extension, in our judgment 2 hours 57 minutes is in no way unreasonable. Mr Kosky does not dispute the charge-out rate on this item.
13. Accordingly in our judgment the landlord is entitled to be reimbursed the full amount of £1,732.47 claimed in respect of legal fees.
14. The Tribunal has the power under paragraph 10 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002 to make an award of costs against a party who acts frivolously vexatiously or otherwise unreasonably. The Tribunal is concerned here that the tenant at negligible expense to himself has caused the landlord to incur very substantial amounts of work to justify the small amount originally in dispute. That is potentially unreasonable behaviour, particularly when the basis of the challenge is so weak. When the landlord (as it was obliged to) issued the current application, the tenant reduced still further the amount he conceded was due. That was potentially frivolous and vexatious.

15. In the current case, however, the landlord has not made any claim to costs under paragraph 10 of Schedule 12, so we do not need to consider this aspect of the case further.

**Determination**

**The tenant is obliged to reimburse the landlord £1,732.47 in respect of its legal costs.**

A handwritten signature in black ink that reads "Adrian Jack". The signature is written in a cursive, flowing style.

Adrian Jack, chairman

28th July 2009