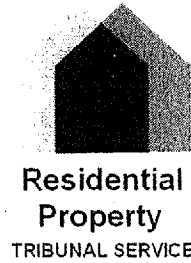


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RESIDENTIAL PROPERTY TRIBUNAL SERVICE

**LEASEHOLD VALUATION TRIBUNAL FOR THE
LONDON RENT ASSESSMENT COMMITTEE**



LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993

REF: LON/00AS/OC9/2009/0073

Property: 9 Langham Court
Station Approach
South Ruislip
Middlesex
HA4 6RX

Applicant: Sinclair Gardens Investments (Kensington) Ltd

Respondent: Mark John Newton

Date of Application: 10 September 2009

Date of Directions: 15 September 2009

Date of Decision: 10 November 2009

Tribunal: Mr S. Shaw LLB (Hons) MCI Arb

DECISION

INTRODUCTION

1. This application is made by Sinclair Gardens Investments (Kensington) Ltd (“the Applicant”) in respect of 9 Langham Court, Station Approach, South Ruislip, Middlesex HA4 7HY (“the Property”). The application is made pursuant to section 60 of the Leasehold Reform, Housing Urban Development Act 1993 (“the Act”) for a determination as to the costs payable pursuant to the provisions of that Act. The application is made against Mark John Newton (“the Respondent”) who is the long leaseholder of the property.

2. The brief background to the matter is that it appears from the papers before the Tribunal that a notice was served by the Respondent to exercise his right to a new lease pursuant to the provisions of the Act. It also appears that the Respondent failed to complete the new lease within 4 months of agreement of terms of the acquisition, as a result of which there was a deemed withdrawal of the notice of claim. In such circumstances, as is not in dispute, the Applicant is entitled to recover those costs it has incurred as defined by section 60 of the Act. In this regard, costs totalling £1,249.66 plus VAT are claimed under section 60(1)(a) of the Act (that is to say by way of “reasonable costs of [and incidental to] any investigation reasonably undertaken of the tenant’s right to a new lease”) and a further £552 plus VAT is claimed under section 60(1)(c) of the Act in respect of the reasonable costs of and incidental to the granting of the new lease under that section. Further, valuation costs of £400 plus VAT are claimed, but these costs are not in dispute.

3. In accordance with the Directions given, the Applicant, through its solicitors, namely P. Chevalier & Co. have submitted very full submissions running to 23 pages together with a number of exhibits and references to various case law. These submissions amount to a detailed discourse of the basis upon which Mr Chevalier (the sole proprietor of the Applicant’s solicitors) contends that assessments of costs of this kind should be approached. He has, as indicated, supported his contentions by detailed references both to provisions in the Act and

various decisions in the Court and before this Tribunal. As will be apparent from what appears below, it is not the intention of the Tribunal to analyse each and every one of the submissions because they have not been substantially addressed in the submissions in response submitted on behalf of the Respondent. Suffice it to say for present purposes, that these cases on costs generally have to be considered on their own merits, but there have been some useful guidelines in other decisions, many of which have been pointed out on behalf of the Applicant.

4. So far as the legal costs of and incidental to the investigation reasonably undertaken of the tenant's right to a new lease are concerned, these have been particularised in a schedule at paragraph 6.1 of Mr Chevalier's submissions. In the absence of any detailed grappling with this schedule, the resulting figure of £1,249.66 plus VAT does not seem to the Tribunal to be exceptional in any way, and nor does the work therein described. The legal fees have been charged at £230 per hour, and 3 hours 50 minutes worth of work has been carried out. The charge rate is towards the upper end of the scale, but this is specialised work and there have indeed been other Decisions to the effect that there is no obligation on landlords in cases of this kind (which involve complex issues), to instruct solicitors with the cheapest possible rates (which in many cases may be counter-productive).
5. Similar consideration apply to the costs of and incidental to the drafting of the new lease, which amounts to 2 hours work at the rate referred to, together with some correspondence, thus totalling £552 plus VAT. In the absence of some reasoned argument from the Respondent, this does not seem outside the range to be expected for work of this kind.
6. The Respondent's comments are restricted in substance to the observation that the time involved in obtaining instructions and considering the valuation is considered to be excessive - but no explanation is given as to why this is considered to be excessive nor an alternative timescale suggested. It is also observed that "that the 75 minutes spent considering our client's notice and drafting counter notice... is excessive" - but again the reasons in great detail given for spending this time set out in the Applicant's submissions and

expanded in a further "Response" submitted on behalf of the Applicant dated 2 November 2009, are not in any significant way engaged with. There is a reference by the Respondent's solicitors to another case before this Tribunal in which they were involved and in which the Tribunal determined that they were entitled to £750 plus VAT by way of legal costs. Without some proper submissions however as to how that case compares on a "like with like" basis with the subject case, the reference is not especially helpful.

CONCLUSION

7. The sums claimed for legal costs as referred to above, appear not to be outside the range to be expected for this type of work so far as the Tribunal is concerned, and they have been explained and particularised at very considerable length on behalf of the Applicant. On the balance of the evidence and submissions before the Tribunal, the Tribunal allows these costs as claimed. This is not to say that in all cases of this kind similar sums would be allowed. As indicated, these matters have to be dealt with on a case by case basis, and it is entirely possible that in other circumstances sufficient material could be put before a Tribunal justifying some variation in the cost as claimed. That material does not exist in the context of this application and, as indicated, the costs are allowed as claimed.

Legal Chairman:

S SHAW



Dated:

10 November 2009