

HM COURTS AND TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL

Case No. CHI/00LC/LCP/2012/0009

Re: Sunderland Close, Rochester, Kent, ME1 3AS.

BETWEEN :

MAXIWOOD LIMITED

Applicant

and

SUNDERLAND CLOSE RTM COMPANY LIMITED

Respondent

Members of the Tribunal: Mr Sanjay Lal LLM (Lawyer/Chairman)
Mr R Athow FRICS MIRPM

Date of Decision: 10th September 2012

THE TRIBUNAL'S DECISION

Background

1. This is an application made by the Applicant pursuant to Section 88(4) of Chapter 1, Part 2 of the Commonhold and Leasehold Reform Act 2002 (the "Act") to determine the amount of costs payable by the Respondent, as RTM Company pursuant to the Act.
2. The factual background of the matter is as follows. The Applicant is the landlord of a number of flats at Sunderland Close, Rochester, Kent (the "Property"). On 12th December 2011, the Respondent sent two claim notices to the Applicant under the Act. The first claim notice sought to acquire the right to manage flats 13 to 24 Sunderland Close and the second claim notice sought to acquire the right to manage flats 31 to 48 Sunderland Close.
3. On 19th January 2012, the Applicant's solicitors served two counter-notices on the Respondent. The counter-notices stated that the Respondent could not acquire the right to manage the premises specified in each of the claim notices as a RTM company cannot acquire the right to manage in respect of more than one set of premises.

4. On 16th March 2012, the Respondent applied to the Tribunal for a determination under section 84(3) of the Act that on the relevant date the Respondent was entitled to acquire the right to manage the flats specified in the two claim notices.
5. On 21st March 2012, the Tribunal issued Directions to the parties. The Applicant was required to provide a Statement of Case by 13th April 2012 and the Respondent was required to serve Points of Dispute by 4th May 2012. The Applicant provided a Statement of Case on 15th April 2012. The Respondent did not provide any Points of Dispute.
6. It is clear from copies of e-mails between the Applicant's and Respondent's representatives that the Respondent withdrew the claim notices on 11th May 2012.
7. On 22nd May 2012, Mr Everett, the Applicant's solicitor, notified Mr Joiner, who was acting for the Respondent, of the amount of costs payable by the Respondent under the Act. These amount to £2,014.40.
8. On 14th June 2012, the Applicant applied to the Tribunal for a determination under section 88(4) of the Act in relation to the amount of costs payable by the Respondent as RTM Company.
9. On 20th June 2012, Directions were issued by the Tribunal requiring the Applicant to provide full details of their claim for costs. The Respondent was required to serve on the Applicant and the Tribunal, Points of Dispute in relation to the Applicant's claim for costs. The Respondent has not served any Points of Dispute. Neither party has objected to this matter being determined on the basis of written representations without the need for an oral hearing.

Case for the Applicant

10. The Applicant has provided a full explanation of the costs incurred in relation to this matter together with copies of the time sheets and client care letter.
11. The Applicant notes that all work was carried out by Mr Everett, a partner in the firm of Coole & Haddock and a Grade A fee earner. The Applicant has shown the amount of time spent by Mr Everett between 19th January 2012 and 14th May 2012 and explained the proportions spent on consideration/ research, correspondence, telephone calls and drafting. The Applicant has also noted that detailed consideration of one Upper Tribunal (Lands Chamber) decision and four decisions of this Tribunal was required, emphasising that the matter was not a straightforward one.

Case for the Respondent

12. The Respondent has not served any Points of Dispute but Mr Joiner's e-mail of 22nd May 2012 to Mr Everett indicates that the Respondent finds the costs "excessive".

Decision


13. Section 88(1) of the Act obliges a RTM company to pay the reasonable costs incurred by the landlord of the premises in question in consequence of a claim notice given by the RTM company in respect of such premises. The Applicant, being such a landlord, is entitled to be reimbursed its reasonable costs incurred in relation to the issue of the claim notices.

14. The Tribunal has considered the Statement of Case issued by the Applicant in relation to the original application by the Respondent and the Applicant's Bundle in relation to this application under section 88(4) of the Act together, in each case, with all accompanying papers.

15. The Tribunal considers that it was appropriate for the work of the Applicant's solicitor to be carried out by a partner in the firm, Mr Everett, due to the complexity of the matter. The Tribunal has considered the time spent by Mr Everett on consideration/research, correspondence, telephone calls and drafting and has concluded that each of these were appropriate. The Tribunal also notes that although the Respondent has indicated that it considers the costs excessive, the Respondent has not challenged any particular areas of the costs incurred.

16. The Tribunal considers that the costs incurred by the Applicant were reasonable and, therefore, finds in favour of the Applicant. The Respondent is required to pay the Applicant's costs in the sum of £2,014.40.

CHAIRMAN
Mr S. Lal


10/9/12.

Any party to this decision may appeal against the decision to the Upper Tribunal (Lands Chamber) with the permission of the Residential Property Tribunal. An application for permission must be made to the Residential Property Tribunal within 21 days of this decision. The provisions relating to appeals are set out in Regulation 38 of the Residential Property Tribunal Procedures and Fees (England) Regulations 2011.