



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

**Case Reference** : **CHI/29UP/LCP/2019/0002**

**Property** : **Surety House, Lyons Crescent  
Tonbridge, Kent, TN9 1EX**

**Applicant** : **Assethold Ltd**

**Respondent** : **Surety House RTM Company Ltd**

**Type of Application** : **s.88 Costs**

**Tribunal Members** : **Judge D Dovar**

**Date of Decision** : **7<sup>th</sup> January 2020**

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**DECISION**

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1. This an application for the determination of the costs incurred in consequence of the service by the Respondent of a notice seeking to acquire the right to manage the Property under the Commonhold and Leasehold Reform Act 2002 ('the Act'). Section 88 of the Act provides for a RTM company to pay the reasonable costs incurred by the landlord. Section 88(2) gives a little guidance as to what is recoverable in that it provides that a cost will only be reasonable if they would have been incurred even if the landlord had been personally liable for such costs. In default of agreement, s.88(4) provides for the matter to be determined by the First-tier Tribunal.
2. The Respondent served a notice under the Act dated 6<sup>th</sup> June 2019 care of the Applicant's managing agents, Southside Property Management Services Limited. They took instructions and passed the notice onto Scott Cohen Solicitors. After some correspondence with the Respondent and liaising with the managing agents, Scott Cohen on behalf of the Applicant served a counter-notice dated 3<sup>rd</sup> July 2019. That counter-notice set out 3 objections to the exercise of the right to manage. The Respondent states that as a result of that counter-notice, the claim was withdrawn.
3. The Applicant claims £1,419 for solicitor's costs, being 4 hours and 18 minutes at £275 per hour and £6.60 plus VAT for postage<sup>1</sup>. In addition, £420 is claimed for managing agent's fees. Both sums are inclusive of VAT. No agreement was reached as to the s.88 costs and so the Applicant has made this application. Both parties have provided written

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<sup>1</sup> Amended pursuant to r.50 Tribunal Procedure (FTT) (PC) Rules 2013 (15/1/20)

submissions with exhibits and authorities which the Tribunal has considered in making this decision.

4. In its submissions, the Respondent has offered £720 inclusive of VAT in total, being around 3 hours of solicitor's time at £200 per hour and with no allowance for managing agent fees.
5. The Respondent objects to the hourly fee, considering that a more junior lawyer should have been instructed and also considers that 4 hours is excessive for what it contends is a relatively straightforward exercise. It also disputes that the managing agent has had any meaningful input. It takes issue with the work said to have been carried out by both.
6. The Respondent withdrew its claim because it accepts that it was technically deficient in that it had specified the wrong date for the right to manage to transfer. This gives some indication of the (some would say unduly) technical nature of applications under the Act. It also provides a very good indication of why it is advisable to engage the services of specialist lawyers in what is not a straightforward exercise, nor one that can be rushed. To that end, not only does the Tribunal consider that the time spent by the Applicant's solicitor was warranted but the hourly rate was within a reasonable band of rates. Accordingly, the solicitor's fees are payable in full.
7. In respect of the challenge to the managing agent's fees, given that the notice was addressed to them and they clearly passed it onto the Applicant, they are entitled to a fee. Further, given that the matter would have impacted on their management of the Property and they

were of assistance to the solicitors and liaised with the Applicant, their fee is reasonable and accordingly is payable in full.

8. Therefore the Respondent is liable to pay the Applicant ~~£1,839~~ £1,846.92<sup>2</sup> in respect of the s.88 costs.



Judge D Dovar

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<sup>2</sup> Amended pursuant to r.50 TPR (15/1/20)

## **Appeals**

A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.