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LVT 96/5

**LEASEHOLD VALUATION TRIBUNAL
OF THE
MIDLAND RENT ASSESSMENT PANEL**

Our Ref: M/LRC 269

DECISION OF LEASEHOLD VALUATION TRIBUNAL

*ON AN APPLICATION UNDER SECTION 21(1) (ba)
OF THE LEASEHOLD REFORM ACT 1967*

Applicant: Mr G T Bradbury & Ms A Milner
Respondent: Mr D E & Mrs Acton
Re: 74 Glendon Road, Erdington, Birmingham,
B23 5HG

Date of Tenants Notice: 14 July 2000

Application to Tribunal dated: 14 May 2001

Heard at: The Panel Office

On: 24 May 2002

APPEARANCES:

For the Applicant: Mr A W Brunt - A W Brunt & Co

For the Respondent: Mr Acton
Mr Sloan – Pennycuick Collins

Members of the Leasehold Valuation Tribunal:

Mr J R Bettinson LLD (Chairman)
Mr S Berg
Mrs C L Smith

Date of Tribunals decision:

25 JUN 2002

DECISION OF THE MIDLAND LEASED HOLD VALUATION TRIBUNAL

BACKGROUND

This was an application to determine the Landlords' reasonable costs payable by the Tenants Mr. G.T. Bradbury and Mrs. A. Milner of 74 Glendon Road Erdington Birmingham in connection with the enfranchisement of that property under the provisions of the Leasehold Reform Act 1967 pursuant to the provisions of Section 9(4) of that Act

HEARING

Mr. A.W. Brunt FRICS appeared on behalf of the Tenants. Mr. Tom Sloan FRICS OF Messrs. Pennycuik Collins appeared on behalf of the Landlords Mr. and Mrs. D.E. Acton. Mr. Sloan reported that both the price to be paid for the freehold reversion (£1940) and the Landlords' Valuers' fee (£250 plus VAT) had been agreed and the only matter still at issue was his clients' legal costs to which Mr. Acton (Solicitor and appearing for himself and his wife) would speak.

Mr. Acton then addressed the subject of his legal costs and helpfully filed a written submission which detailed the previous decided case history of applications for costs leading up to the present time. He then cited the recently published Land Tribunal decision of Judge Rich (83 Glendon Road Erdington Birmingham – LRA/34/2002) in which he and his wife had been the Appellants.

He claimed that this had created a fundamental change in the approach to legal costs which had been awarded to him in that case on a time basis at the Court rate of £135 per hour. That rate has, it appeared, increased to £145 from May 2002. On that itemised basis (i.e. £14.50 each) he submitted that his costs should be calculated as follows :

Letters – in	19	275. 50
Out	15	217. 50
Calls - in	9	130. 50
Out	3	43. 50

		667. 00
Attendance – 4 hours % £145		580. 00

		1247. 00
Plus conveyancing		150. 00

	£	<u>1397. 00</u>

He claimed to be allowed £580 plus an element to cover uncharged letters and telephone calls (say one quarter of £667) and the £150 for future conveyancing work – and £8 for Land Registry Office copies and filed plan

Cross examined by Mr. Brunt, he accepted that the Respondents had not been represented at the Lands Tribunal hearing but did not believe the uncontested nature of the case

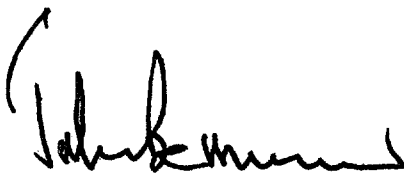
weakened its authority. He was a sole practitioner and while it might be the case that legal work of this kind could be undertaken by staff lacking formal legal qualifications, he was not in a position to delegate the work to an assistant

While he acknowledged that Solicitors' firms charged and accepted fees of between £250-£350 for work of this kind, he did not regard it as unreasonable to expect tenants to meet the proper remuneration of the professional advisors of Landlords. Enfranchisement was a form of compulsory purchase

DECISION

This Tribunal takes the view that legal costs in order to be 'reasonable' must have some regard to the market place and to the relatively straight forward nature of the work in the great majority of cases. We are prepared to accept that a Landlord may charge for what we designate the administrative function involved i.e. receiving and responding to the initial Notice. This would include checking the Applicant's entitlement but would not include reading Hague or the Tenants' applications for price and costs to this Tribunal (which in any event both fall outside the provisions of Sec.94 of the 1967 Act). Every case must be assessed on its individual features (for example if the title is registered the conveyancing work comprises only providing office copies, approving a Land Registry Standard Form of Transfer and completing the transaction). Mr. Acton suggests that there was in this case a duplication of work due to the submission of two Notices and two Cautions but this appears only to have arisen due to a failure to advise the Tenants of a change of freehold ownership.

If we have reservations concerning the Lands Tribunal decision (by which we do not regard ourselves as being bound) – particularly in view of its untested character - it is the low level of costs attributable to the conveyancing work which we more fairly put at £225. So far as dealing with the Notice to enfranchise it concerned, we believe reasonable remuneration for the level of ability needing to be involved to be £100 in this case. The Valuation fee having been agreed at £250 we determine the Landlords reasonable costs to be paid by the Tenants calculated in accordance with Section 9(4) of the Act at £575 plus VAT and £8 Land Registry office copy fee



JOHN BETTINSON
CHAIRMAN

June 2002

25 JUN 2002