



Residential
Property
TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: CHI/00ML/OC9/2008/0003

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTIONS 60 AND 91(2)(d) OF THE
LEASEHOLD REFORM HOUSING AND URBAN DEVELOPMENT ACT
1993**

**Premises: Lower Ground Floor Flat 32A Osbourne Villas Hove East
Sussex BN3 2RE**

Applicants: Amy Louise Graves

Respondent: Lyndale Development Company

Date of Decision: ...21 October 2008.....

Leasehold Valuation Tribunal: Mrs F J Silverman LLM

DECISION

- 1 The total amount allowed by way of the Respondent's costs is therefore £1459.15 plus £9.00 disbursements.
- 2 The totals stated above do not include VAT which should be added to the profit costs but not to the disbursement item.

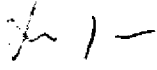
REASONS

- 3 This application relating to a lease extension under section 48 Leasehold Reform Housing and Urban Development Act 1993 having been withdrawn on settlement, this decision relates to the Landlord's (Respondent's) costs as payable by the Tenant (Applicant).
- 4 Directions were issued by the Tribunal on 20 June which stated (inter alia) that the matter would be dealt with by a paper application. No objection having been received by either party the matter has therefore been determined without a full hearing but taking into account the bundle of documents supplied to the Tribunal by the parties.
- 5 It is common ground that section 60 (1) is applicable to this claim.
- 6 The landlord's recoverable costs are those which fall within section 60(1) of the Act as limited or extended by sections 60 (2)-(6).
- 7 Section 60 (1) and (2) provide as follows: '(1) where a notice is given under section 42, then (subject to the provisions of this section) the tenant by whom it is given shall be liable, to the extent that they have been incurred by any relevant person in pursuance of the notice, for the 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 tenant's flat obtained for the purpose of fixing the premium or any other amount payable by virtue of Schedule 13 in connection with the grant of a new lease under section 56; (c) the grant of a new lease under that section; (2) For the purposes of subsection (1) any costs incurred by a relevant person in respect of professional services rendered by any person shall only be regarded as reasonable if and to the extent that costs in respect of such services might reasonably be expected to have been incurred by him if the circumstances had been such that he was personally liable for all such costs'.
- 8 References below are to the Respondent's schedule of costs as set out on pages 2 and 3 of the supplied bundle of documents.
- 9 Applying the above subsections it appears that costs which relate purely to solicitor and own client matters are not allowable. Similarly matters which relate to communication between the landlord's solicitor and the valuer, excluding the cost of the valuation itself are not permitted. For these reasons the items on the Respondent's schedule under the following headings are disallowed in their entirety: 19 April 2007, 20 February 2008 and 21 February 2008.
- 10 In relation to the remainder the hourly rates applied are those given by the Respondents and agreed by the Applicant, namely £241 and £215 for the

respective fee earners whose initials appear against the various items. The Tribunal considers these rates to be reasonable in relation to work undertaken by London solicitors at the relevant time.

- 11 The remaining items on pages 2 and 3 are now considered in turn.
- 12 12 February 2007 – the Tribunal considers that this work should have taken an experienced solicitor less than one hour and allows 48 minutes (£192.80).
- 13 26 February 2007- the Tribunal considers that this work would have taken an experienced solicitor about 18 minutes (£72.30).
- 14 5 March 2007 - the Tribunal considers that this work would have taken an experienced solicitor 12 minutes (£48.20).
- 15 9 March 2007 – This amount is allowed in full , one 6 minute unit @ £24.10.
- 16 19 March 2007 – the work claimed for under this item had in part already been done and charged for (considering the tenant’s status and the title deeds – see 12 February and 5 March above) . The preparation of a report for the Respondent’s own client is not claimable under the section. The amount claimed here is therefore reduced to reflect the much smaller amount of time spent actually dealing with the Tenant , namely 12 minutes (£48.20).
- 17 28 March 2007 – The Tribunal accepts the Respondent’s explanation of this claim and allows 18 minutes (£73.30).
- 18 30 March 2007 – This claim is reduced to 12 minutes to reflect the amount of time related to the tenant and excluding correspondence with the Respondent’s own client and valuer (£48.20).
- 19 2 April 2007 - The Tribunal accepts the Respondent’s explanation of this claim and allows 6 minutes (£24.10).
- 20 23 April 2007 – The time allowed for this item is reduced by 30 minutes to reflect the disallowed time spent writing to the Respondent’s valuer. The Tribunal allows 90 minutes (£361.15).
- 21 18 January 2008 – This amount is allowable and is agreed by the Applicant (£24.10).
- 22 30 January 2008 - This amount is allowable and is agreed by the Applicant (£48.20).
- 23 11 February 2008 – The Tribunal considers that this work should have taken an experienced solicitor less than one hour and allows 48 minutes (£172.00).
- 24 18 February 2008 – the only allowable item in this claim relates to the letter to the Tenant’s solicitor for which 12 minutes is allowed (£43.00).
- 25 19 February 2008 – This claim has been agreed by the Applicant’s and is allowed (12minutes: £43.00).
- 26 25 February 2008 - This amount is allowable and is agreed by the Applicant (£21.50).
- 27 Anticipated time - This amount is allowable and is agreed by the Applicant (£215.00).
- 28 The Tribunal disallows the Courier charges of £64.26 . There is no apparent reason why the documents referred to in the Respondent’s explanation could not have been delivered by post or DX.

- 29 The Tribunal allows the Land Registry fees of £9 accepting the Respondent's explanation of the reason for this expense.
- 30 The total amount allowed by way of solicitor's profit costs is therefore £1459.15 plus £9.00 disbursements.
- 31 The sums and totals shown above do not include VAT which should be added to the profit costs but not to the disbursement item.



Frances Silverman
Chairman
21 October 2008