

1667



**Residential
Property**
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL
LEASEHOLD REFORM, HOUSING AND URBAN DEVELOPMENT ACT 1993**

LON/00BK/OLR/2008/0257

Premises: Waverly Court

Applicant: Gerald Kouri

Represented by: Lawrence Stephens

Respondent: Howard De Walden Estates Ltd

Represented by: Speechly Bircham

Tribunal: Ms M W Daley LLB (Hons)
Ms A Flynn MA MRICS

Date of Hearing: 01/05/08

Date of Decision: 19/05/08

The Application

1. This application, was issued by the solicitors Lawrence Stephens on behalf of the Lessee Gerald Kouri, on 20 February 2008 for a determination of the cost payable to the Respondent under sections 60 of the Leasehold Reform Housing and Urban Development Act 1993 ("the Act").
2. On 18th March 2008 the Tribunal gave directions that this matter was suitable for a paper determination. The Respondent landlord was directed to provide detailed statements of cost by 31st March 2008 and the Applicant was directed to provide a detailed statement in reply by 14 April 2008.
3. On 1 May 2008 the matter came before the Tribunal as a paper determination. The Tribunal noted that the Respondent had not complied with the Direction, requiring the Respondent to provide a detailed statement of cost.

The only information before the Tribunal was letters from the Respondent's solicitors Speechly Bircham to the Applicant's solicitor.
4. In a letter dated 24 July 2007, the Applicants cost were stated to be £3,800.94 these cost were broken down in the letter into the following headings:-
5. Legal Cost £750 plus (£131.25 VAT). Search fees of £13.44, and Valuers' fees in the sum of £890.06 for Carter Jonas and £1,516.19 for Gerald Eve. There was also the cost of £500 in-house investigation fee. In a letter dated 19 February to the Applicant's Solicitors, the Respondent's solicitor provided the following explanations:-
6. The time spent on investigation was divided between their client's in-house surveyor in carrying out an inspection of the property and the solicitors. The solicitors were responsible for checking the title and advice on the validity of the claim and that this represented 2.6 hours of a partner's time at an hourly rate of £260.
7. The Respondent's solicitor stated that the use of two valuers was necessary as one Carter Jonas had a specialist knowledge of the area the property was located, whilst the other Gerald Eve were specialist in enfranchisement.

8. The letter further stated that the valuation fees had been incurred as the valuation took place on 12/12/06 10 days before the counter notice was served.
9. The Applicant by letters dated 8/2/08 and 19/2/08 set out their objections as follows:-
 - a) The Respondent was not entitled to charge for two valuation fees and that in any event the amount charged by both valuers was excessive.
 - b) The Applicant's solicitor also asserted that contrary to the letter dated 24 July 2007 that the inspection had not taken place until after the notice was served.
 - c) The Applicant also criticised the time spent on investigating title as excessive, and proposed the following fees
 - d) In-house investigation fees of £500.
 - e) Legal cost of £250 and VAT of £43.75
 - f) Search fees of £13.44

And valuation fees from Carter Jonas in the sum of £890.06

The Law

- g) The Law applicable to this case is summarized below:-

Section 60 of the Act entitles a landlord to recover its reasonable costs following service of a Notice of Claim pursuant to the provisions of section 42 of the Act. This includes any investigation under the lease of a tenant's right to a new lease. Any valuation of the tenant's flat obtained for the purpose of fixing a premium and any other amount payable by virtue of Schedule 13...

Section 60(2) of the Act provides that a landlord may recover the costs that it would have incurred had it been personally liable for those costs.

The Decision of the Tribunal

The Tribunal having considered all of the evidence before it have determined that the following cost were reasonably incurred -:

- I. In-house investigation fees of £500. The Tribunal have determined that as these cost were agreed between the parties, this sum is payable by the Applicant, the Tribunal consider that by using the words "Investigation" The Respondent's are understood to mean any investigation reasonably undertaken of the tenant's right to a new lease. Given this it appears to the Tribunal that there was duplication of the work undertaken by the in-house team and the Respondent's solicitors. The Tribunal would have been assisted by a detailed breakdown of the work undertaken.
- II. Legal cost of £260 and VAT of £45.50- In the absence of any detailed breakdown of the cost, the Tribunal accept the Applicant's assertions that it was unnecessary for this work to be carried out at partner level. The Respondent in choosing a partner is deemed to have done so on the basis that a competent partner would require less time to carry out this work, accordingly the Tribunal find that this work could have been undertake by a partner in an hour.
- III. Search fees of £13.44- The Tribunal find that this was reasonably incurred.
- IV. Valuation fees from Carter Jonas in the sum of £890.06-: The Tribunal finds that without detailed explanation as to why two valuers were needed, that only one fee should be paid accordingly the Tribunal have determined that the Respondent should be limited to the cost of Carter Jonas fees.

The Tribunal accordingly find the sum of £1709.00 to be payable by the applicant

Signed



Dated

19-5-08