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Ref /LON/00BH/OC9/2011/0059

**LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON RENT  
ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON APPLICATION  
UNDER SECTION 60 OF THE LEASEHOLD REFORM, HOUSING AND  
URBAN DEVELOPMENT) ACT 1993**

**Applicant**

**Peter Sheldon**

**Respondent:**

**Claire Marie Connelly**

**Re:**

**Ground Floor Flat 67 Ulverston Road  
Walthamstow London E17 4BN**

**Date of application**

**13<sup>th</sup> September 2011**

**Members of the Leasehold Valuation Tribunal:**

**Mr P L Leighton LLB(Hons)**

**Mr L Jarero BSc FRICS**

**Date of Tribunal's decision:**

**9<sup>th</sup> November 2011**

## DECISION

### Introduction

- 1 In this case Mr Peter Sheldon through his solicitors Tolhurst Fisher applies for a determination of costs under Section 60 of the Leasehold Reform (Housing and Urban Development Act) 1993 ("the Act") in respect of a deemed withdrawal of an application for a new lease pursuant to a notice under Section 42 of the Act in respect of the Ground floor Flat 67 Ulverston Road Walthamstow London E17 4BN ("the flat")
- 2 Directions were given on 21<sup>st</sup> September 2011 and the matter was directed to be heard by way of a paper determination following submissions by the parties.
- 3 The bill of costs submitted by the Applicant's solicitors amounts to £1152 under Section 60. In addition there is a claim for a valuer's fee in the sum of £705 inclusive of VAT and disbursement of £86.19. making a total sum inclusive of VAT of £2144.79
- 4 On 23<sup>rd</sup> April 2010 a notice of claim under Section 42 was made by Raymond Silver. On 26<sup>th</sup> April 2010 the property was conveyed to the Respondent who acquired the benefit of the notice. A counter notice admitting the claim was served on 25<sup>th</sup> June 2010. She then failed to bring proceedings before the tribunal within a period of 6 months and was therefore deemed to have withdrawn the claim. The costs relate to those abortive proceedings.
- 5 An original bill of costs submitted by the Applicant's solicitor dated January 2011 in the sum of £1144 solicitors's costs was withdrawn and the new bill was submitted. No reply has been received from the Respondent and her solicitors have indicated they are without instructions consequently no submissions have been received from the Respondent in answer to the statement of Mr Robert Plant partner in Tolhurst Fisher

### The Law

- 4 Section 60 of the Act provides as follows: -

*provisions. That is not the case and the wording of the subsection is very specific”*

### **The Evidence**

- 8 The landlord's solicitors Messrs Tolhurst Fisher LLP have submitted their bill and have charged costs on the basis of £180 per hour for the investigation of title and for the preparation of the new lease.
- 9 The landlord's solicitors apart from having submitted their bill have made detailed submissions on the costs in the statement of Mr Plant. He has set out the process in his statement under items 4.1 and 4.2.1 to 4.2.10

### **The Tribunal's Decision**

- 10 Applying the broad brush approach the Tribunal considers that an allowance of 4 hours for taking instructions ,the investigation of title and instruction of valuer at £180 per hour would be reasonable making a total of £720 plus VAT.
- 11 The Tribunal does not seriously challenge the other items except the item of £198 plus VAT for drafting the lease before the service of the counter notice. The tribunal does not consider that it is necessary or even desirable to draft the lease until it is known that the counter notice has been served and that the matter is likely to proceed. .The Tribunal proposes therefore to allow the remainder of the costs but to disallow the sum of £198 plus VAT for the drafting of the lease.
- 12 Therefore the total recoverable by the landlord's solicitors under Section 60 is assessed at £954 plus VAT ,£705 inclusive of VAT for the valuer and £86.10 for disbursements and this sum should be paid by the Respondent forthwith

Chairman Peter Leighton

Date 9<sup>th</sup> November 2011

