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DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

**ON AN APPLICATION UNDER SECTION 48 OF THE LEASEHOLD REFORM,
HOUSING AND URBAN DEVELOPMENT ACT 1993**

Case Reference: CAM/22UH/OLR/2011/0109

Premises: 12 Vanryne House, 264 High Road, Loughton,
Essex IG10 1RB

Applicant(s): Firozdin Kurbanali Hussein

Representative: Verbatim Property Lawyers Ltd

Respondent(s): Daws Investment Ltd

Representative: Clyde & Co LLP, solicitors

Date of decision: 16th April 2012

**Leasehold Valuation
Tribunal:**

Mr Adrian Jack, Mr Neil Martindale FRICS

Procedural

1. By a notice under section 42 of the Leasehold Reform, Housing and Urban Development Act 1993 dated 15th June 2011 the tenant sought a lease extension in respect of the property. The landlord served a counternotice disputing the terms offered by the tenant and the matter was referred to the Tribunal.
2. The Tribunal issued directions which provided that if bundles were not received timeously the Tribunal would meet on 6th March 2012 at the Tribunal's offices in Great Shelford to consider dismissing the case under regulation 11 of the LVT (Procedure) (England) Regulations 2003.
3. Bundles were not provided timeously, but both parties indicated their willingness for the Tribunal to determine the substantive issues between the parties without the attendance of the parties on that date. In the event, the parties agreed the premium, so that when the Tribunal met only the terms of the lease and the determination of the costs payable by the tenant to the landlord remained for determination.
4. After the Tribunal had considered the matter, but before it had promulgated its decision, the parties agreed the terms of the lease, so the Tribunal has no jurisdiction in relation to that matter. (The Tribunal points out, however, that the agreed form of the draft lease does not include the "particulars" pages which are now a requirement of Her Majesty's Land Registry.) The only issue for the Tribunal to determine is therefore the costs.

The costs

5. The landlord has served a schedule of costs and the parties have made representations.
6. The bill of costs is divided into three parts. Part 1 consists of the litigation costs in the period 16th June 2011 to 22nd August 2011. Clyde & Co charged a fixed fee of £500 for this period, which in our judgment is reasonable
7. Part 2 consists firstly of litigation costs in the period 30th August 2011 to 21st December 2011. The reason for these further costs appears to be a worry on the part of the landlord as to the validity of its counternotice. In our judgment these costs are not reasonably incurred and we allow nothing. The landlord also claimed courier's fees of £288.78. This amount is very high and is not explained. We accept the tenant's submission that £40 would be sufficient. The £4 in respect of Land Registry fees is not disputed.

8. Part 2 consists secondly of the valuer's fees claimed at £1,286.66. This is said to be 4 hours 40 mins @ £250 per hour plus an unexplained £125. The valuer's fee is very high for a modest lease extension of this type. In our judgment the maximum fee which would be reasonable for a valuation of this property would be £750. Accordingly we allow only £750.
9. Part 3 consists of the conveyancing costs. The work was done by an assistant solicitor admitted in 2004 charged at £385 per hour and a senior paralegal charged at £125 per hour. The assistant solicitor sought to charge 1 hour 12 minutes and the paralegal 12 hours 36 minutes.
10. The paralegal's hours have been very substantially increased by Clyde & Co's decision completely to redraft the lease. In our judgment this was inappropriate. By section 57 of the 1993 Act the starting point when drafting the lease extension is the terms of the existing lease. This Clyde & Co failed to do. In consequence the work was very substantially and unnecessarily increased.
11. In addition the assistant solicitor's rate is much higher than is usual in Guildford. The rate is a City of London rate, but it would not have been appropriate for the landlord to employ a City of London solicitor for a straightforward lease extension such as this. In our judgment the most that it is reasonable to charge is £290 an hour for the assistant's time.
12. If the drafting of the lease had been approached as it should have been, the landlord would be able to justify one hour of the assistant solicitor's time and three hours of the paralegal's. This gives a total of £665 (1 hour @ £290 and 3 hours @ £125).
13. Clyde & Co also sought to recover the cost of a costs draftsman at three hours at £195 per hour. In our judgment there is no legal basis on which a landlord can recover those costs.
14. Accordingly we allow (a) solicitor's costs of £1,165, (b) valuer's fees of £750 and (c) disbursements of £44, a total of £1,959.00.

DETERMINATION

The Tribunal accordingly determines that the tenant is obliged to pay the landlord £1,959.00 in respect of the landlord's costs.

Adrian Jack, Chairman

16th April 2012