



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case Reference** : **LON/OOAW/OCE/2015/0006**

**Property** : **3 Sullivan Court, 109 Earls Court  
Road, London SW5 9RP**

**Applicant** : **Richard Barclay**

**Representative** :

**Respondent** : **Sunbeam Properties Limited**

**Representative** : **Seddons solicitors for the  
Respondent**

**Type of Application** : **S60 and 91 Leasehold Reform,  
Housing and Urban Development  
Act 1993 (the Act)**

**Tribunal Members** : **Tribunal Judge Dutton  
Mr L Jarero BSc FRICS**

**Date and Venue of  
hearing** : **8<sup>th</sup> July 2015 at 10 Alfred Place,  
London WC1E 7LR**

**Date of Decision** : **8<sup>th</sup> July 2015**

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**DECISION**

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## **DECISION**

**The Tribunal determines that the sum payable by the Applicant shall be £3,996.00 as representing the costs payable under the provisions of section 60 of the Act.**

### **BACKGROUND**

1. This application was to consider the costs of the Respondent Landlord Sunbeam Properties Limited that are payable by the applicant Mr Richard Barclay pursuant to section 60 of the Act.
2. The matter came before us for a paper determination on 8<sup>th</sup> July 2015. We had before us a schedule of costs prepared by Seddons, a copy of the fee note for Lester Harrison & Partners, the surveyors and a copy of the agreed lease. There were no submissions from Mr Barclay, who was now unrepresented, his former solicitors ODT Solicitors having written to the Tribunal on 18<sup>th</sup> June 2015 so say they no longer acted for him. There are no invoices produced from Seddons to their client showing the charge to the Respondent, nor any indication of the rates agreed with Sunbeam Properties Limited.

### **THE LAW**

3. The law relating to this matter is contained at s60 of the Leasehold Reform, Housing and Urban Development Act 1993 (the Act). The section is set out at the end of this decision.

### **FINDINGS**

4. It is tempting to allow the costs claimed by the Respondent's solicitors in the absence of any representation by the Applicant. However, we bear in mind that the Applicant is not represented and consider we should review the costs sought. We considered the schedule of costs and make the following findings, bearing in mind that the Applicant has not raised any issues. We find that the hourly rate of Mr Midgley is, on the face of it acceptable. We have assumed that given his hourly rate he is an experienced practitioner in the field of enfranchisement. That being so we consider that the time spent of just under 4 hours in dealing with the provisions of s60(1)(a) somewhat on the high side. There is no indication that this was anything other than a straight forward lease extension case. There is any error in respect of the fee charged on 1<sup>st</sup> May 2014 which should be £35, if it were payable, but there is also a charge made for preparing and then amending the Counter-notice. We consider that the time spent on correspondence is on the high side, in particular the contact with the Applicant's solicitors. Taking the matter in the round we find that three (3) hours at the rate of £350 is sufficient for this element. We therefore allow the sum of £1050, plus VAT of £210 and the office copies of £6.

5. We turn then to the valuation fee of Lester Harrison & Partners which stands at £1,800. We are given no information on the hourly rate of the valuer involved, nor the time spent. We see that the valuer's office is situated in Mayfair so that travel time should be fairly short. The fee note confirms the work undertaken. We consider the sum claimed to be high. This is a valuation for the purposes of the Counter-notice of one flat. The premium appears to have been agreed at just over £52,000. Taking all matters into consideration and given the paucity of information on the basis of how the fee was calculated we find that this should be reduced to £1,000 plus VAT of £200.
6. The final element of fees relates to the costs associated with the grant of a new lease, the terms of which we are told are agreed. This is referred to as a "fixed fee" but we have no information upon how the fee was fixed. The Lease is provided and appears to be a new one but was attached to the Counter-notice. There is no indication as to whether this was agreed at that time. Considering the lease and based on the hourly rates of Mr Midgley, who may or may not have dealt with the lease, we find that a period of 3 hours should have been sufficient to resolve this issue. In those circumstances we allow £1050 plus VAT of £200. The Management company fixed fee is presumably for the purposes of reviewing the lease and at £270 is allowed.
7. We therefore find that the total legal fees to be paid by the Applicant for the costs under s60 of the Act are £2,100 with VAT of £420. The valuers fees are allowed at £1,000 plus VAT of £200 and the costs associated with the new lease of an additional £270 in respect of the Management Company's involvement. Together with the office copies of £6 this gives a total payable by the Applicant of £3,996.00.

*Andrew Dutton*  
Andrew Dutton - Tribunal Judge

8<sup>th</sup> July 2015

### **The Relevant Law**

#### **60 Costs incurred in connection with new lease to be paid by tenant.**

(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;

but this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

(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.

(3) Where by virtue of any provision of this Chapter the tenant's notice ceases to have effect, or is deemed to have been withdrawn, at any time, then (subject to subsection (4)) the tenant's liability under this section for costs incurred by any person shall be a liability for costs incurred by him down to that time.

(4) A tenant shall not be liable for any costs under this section if the tenant's notice ceases to have effect by virtue of section 47(1) or 55(2).

(5) A tenant shall not be liable under this section for any costs which a party to any proceedings under this Chapter before a leasehold valuation tribunal incurs in connection with the proceedings.

(6) In this section "relevant person", in relation to a claim by a tenant under this Chapter, means the landlord for the purposes of this Chapter, any other landlord (as defined by section 40(4)) or any third party to the tenant's lease.