



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

Case Reference : **MAN/00BM/OAF/2014/0020**

Property : **38 Trimingham Drive, Brandlesholme, Bury
BL81JW**

Applicants : **Mr & Mrs Harrison**

Respondents : **(1) Bushcarm Limited
(2) Bury Metropolitan Borough Council**

Represented by : **(1)Stevenson Solicitors**

Type of Application : **Section 21(1)(a) of the Leasehold Reform Act
1967**

Tribunal Members : **Judge H A Khan (Chairman)
Judge J Holbrook**

Date of Decision : **11 August 2015**

Decision

Decision of the Tribunal

1. **The amount of the costs payable by the Applicants under section 9(4) of the Act to the first Respondent, Bushcarm Limited, is £480.00 (inclusive of the valuation costs of £180).**
2. **The amount of the costs payable by the Applicants to the second Respondent, Bury Council, have been agreed between the parties as £700 (comprising of the valuation costs of £350 and legal costs of £350 plus VAT).**

The Application

3. This is a decision on an application under section 21 of the Leasehold Reform Act 1967 ("the Act) made to the Tribunal relating to 38 Trimmingham Drive, Brandlesholme, Bury, BL8 1JW ("the property") to determine the price payable for the freehold and head lease interest under section 9(1) of the Act together with the amount of any reasonable costs payable under section 9(4) of the Act.

Matters in Dispute

4. The parties had by the time of this determination agreed all matters other than that relating to costs under Section 9(4) of the Act. The only issue appeared to be the costs as between the Applicants and the first Respondent, Bushcarm Limited (which is the intermediate landlord).
5. The Applicant and the second Respondent, Bury Council, confirmed that an agreement on costs was made prior to the service of the Notice of Tenant's Claim. The Tribunal noted that agreement.

The Background

6. On 19 October 2014 the Applicants submitted an application to the Tribunal for determination of the proper price payable for the freehold and head lease interest in the property under section 9(1) of the Act
7. On 14 August 2014 a Notice of Tenant's Claim to acquire the freehold and head lease interest in the property was served by the Applicant upon the Respondents.

8. By directions issued on 17 November 2014, the Tribunal informed the parties that it intended to determine the application on the basis of a consideration of written evidence alone, without an oral hearing, unless it received notice that either party required a hearing to take place. No such notice was received. Accordingly, the Tribunal convened to determine the application in the absence of the parties on 11 August 2015. The Tribunal did not inspect the Property given that the substantive issue of price payable had been agreed.

The Law

Section 9(4) of the Leasehold Reform Act 1967 Act states:

(4) Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:-

- (a) Any investigation by the landlord of that person's right to acquire the freehold;
- (b) Any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;
- (c) Deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;
- (d) Making out and furnishing such abstracts and copies as the person giving the notice may require;
- (e) Any valuation of the house and premises;

But so that 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.

Subsection (4) above does not require a person to bear the costs of another person in connection with an application to a tribunal.

The Applicants' Case

9. The Applicants' case is as set out in the application form and in various correspondence to the Tribunal and copied to the Respondents.

The First Respondent's position

10. The first Respondent's position is set out in the statement as to costs dated 22 May 2014. In summary, it seeks to recover legal costs in the sum of £1,518.24 together with valuation costs of £180.

Reasons for the Tribunal's decision

11. In reaching their determination, the Tribunal has had regard to the evidence and submissions of the parties and the relevant law.
12. The Tribunal took into account the Applicants' contention that they had agreed £57 in costs with the First Respondent. However, the evidence produced was correspondence sent by the Applicants to the first Respondent confirming what the applicants would pay rather than any settled agreement between the parties on the issue. It is apparent that, as from the date of the tribunal application to the date of determination, the parties were not in agreement as to the costs payable to the First Respondent.
13. The Tribunal also noted the Applicants' objection to the claim for valuation fees. This objection reflects the Applicants' doubt as to whether valuation costs were actually incurred. However, we accept the copy invoice as evidence that the costs were incurred, and we find (subject to what follows) that they are not unreasonable in amount.
14. In so far as legal costs are concerned, the Tribunal noted that the amount claimed appeared disproportionately large bearing in mind that this matter concerns a straightforward transfer of a leasehold interest valued at £475. It was noted that, early on in the enfranchisement process there was a letter dated 20 August 2013 from the first Respondent's managing agents to the Applicants indicating that the costs associated with the purchase would be £480 as "a contribution to the head lessor's costs". The Tribunal noted that, if this included both valuation and legal costs (and there is nothing to indicate otherwise), then it would be a reasonable amount in the circumstances. We have therefore considered whether there are any factors which would justify a departure from this figure in the present case, and we find that there are none. The first Respondents solicitors argue the matter was more complex than anticipated because they were dealing with an intermediate interest. The Tribunal did not accept that and found, if anything, the extra work was caused by confusion on the first Respondent's part about the nature/valuation of the interest, and the Applicants should not be asked to pay increased costs on account of this. We noted that the confusion was exemplified by references in the first Respondent's statement of case to provisions of the Leasehold Reform, Housing and Urban Development Act 1993, which are obviously inapplicable to the current proceedings.
15. The Tribunal, therefore, determined that the amount of the costs payable by the Applicants under section 9(4) of the Act to the first Respondent, Bushcarm Limited, is £480.00 (inclusive of the valuation costs of £180).
16. The Tribunal also noted that the sum of £350 for legal fees and the sum of £350 (survey fees) totaling £700 were agreed to be payable by the Applicant to Bury Council.



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

Case reference : **LON/00BJ/OAF/2015/0020**

Property : **20 Levana Close, London SW19
6HP.**

Applicant : **Pirjo Anneli Cramer**

Representative : **TWM Solicitors LLP**

Respondent : **Flodale Limited**

Representative : **Child & Child**

Type of application : **Application under S.21 Leasehold
Reform Act 1967.**

Tribunal member : **Aileen Hamilton-Farey**

Date of decision : **22 June 2015**

DECISION

1. The tribunal received an application on 4 June 2015 for a determination of the appropriate sum to be paid under S.27 (5) of the Act. Having sought clarification the tribunal was informed that despite the agreement of the parties as to the terms of transfer in October 2014, the respondent had failed to complete the matter. It appears that the respondent claims service charges for which the applicant denies liability on the basis that none have been carried out.
2. The tribunal does not consider that outstanding service charges come within the scope of S.21 (1) of the Act, but that a determination can be made under S.27A of the Landlord & Tenant Act 1985. If such an application is made, the tribunal will issue appropriate directions.

3. In the circumstances the tribunal does not consider that it has any jurisdiction under S.21(1) of the 1967 Act and therefore closes its files and will take no further action, until an application is made under S.27A.

Name: Aileen Hamilton-Farey **Date:** 22 June 2015