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

Case Reference : **LON/OOBD/OC9/2016/0428**

Property : **66, Selkirk Road, Twickenham,
Middlesex TW2 6PU**

Applicant : **William Godwin and Jane Godwin**

Representative : **William Godwin**

Respondent : **Francis Christopher O'Reilly**

Representative : **Stone Rowe Brewer LLP**

Type of Application : **Determination of costs under s60
and s91 Leasehold Reform,
Housing and Urban Development
Act 1993**

Tribunal Members : **Tribunal Judge Dutton
Mr W R Shaw FRICS**

Date determination : **12th December 2016**

DECISION

DECISION

The Tribunal determines that the sum payable by the Applicant in respect of the Respondents valuation costs under the provisions of section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 (the Act) is of £750.

BACKGROUND

1. This is an application for the determination of the valuation fee payable by the Applicant to the Respondent under the provisions of section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 (the Act).
2. Directions were issued by the Tribunal on 18th October 2016 confirming that the application would be considered on the documentation filed, without the need for a hearing, unless either party requested one. Neither party did.
3. In preparation for such determination the Applicant had lodged with the Tribunal a small file of papers which included the correspondence, evidence of the fee paid to the Applicants surveyor, Milestone & Collis of £330, the fee claimed by Sweeting Associates Limited on behalf of the Respondent for the valuation and letters from Stone Rowe Brewer LLP (SRB) dated 26th October 2016 and 10th November 2016. We have considered these documents before making the decision in this case.
4. The issue in this case is whether the Respondent's valuers fee is too high given that a previous valuation had been provided in July 2013 and that therefore Mr Sweeting had the information required from that time and that the costs should be less, a figure of £500 being suggested in the application.
5. The history appears to be that in July 2013 the Applicants served a notice under section 42 of the Act. Terms were concluded but the matter did not complete. A further notice was served by the Applicants dated 6th October 2015. It appears that Mr Sweeting attended the property at 66 Selkirk Road, Twickenham on 4th December 2015 for the purposes of preparing a fresh report. The details are set out in the letter from SRB dated 26th October 2016.

THE LAW

6. The provisions of section 60 are set out in the appendix and have been applied by us in reaching this decision.

FINDINGS

7. In reaching our decision we have reviewed the papers before us. We think we can take this quite shortly. There is a gap of nearly 18 months between the first fee note dated 22nd July 2013 and the latest fee note dated 4th December 2015. It is accepted that the first notice was deemed withdrawn and a fresh notice issued in October 2015.

8. In our finding it is perfectly reasonable for the Landlord to instruct the valuer to prepare a fresh report. Such report would require a reworking of the issues to reflect the changed valuation date. An inspection was clearly required given the passage of time and to all intents and purposes the valuer would need to start again. We do not consider the fee of £750 to be unreasonable and is only a small uplift on the fee charged in 2013 which was £675.
9. We therefore find that the valuation fee of £750 is due and owing.

Andrew Dutton

Tribunal Judge Dutton

12th December 2016

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

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.