



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

**Case Reference:** CHI/21UC/LCP/2021/0002

**Property:** Rusper House, Michel Grove, Eastbourne  
BN21 1LA

**Applicant:** Michel Grove Properties Limited

**Representative:** Wallace LLP

**Respondent:** Rusper House RTM Company Limited

**Representative:**

**Type of Application:** Section 88(4) Commonhold and  
Leasehold Reform Act 2002  
Application for an Award of Costs in  
relation to a Right to Manage Claim

**Tribunal Members:** Judge A Cresswell

**Venue of Hearing:** On the Papers

**Date of Decision:** 21 December 2021

**DECISION**

### **The Application**

1. On 3 September 2021, the Applicant, the landlord of the property, made an application to the Tribunal for its costs incurred in consequence of a Claim Notice served upon it by the Respondent RTM company.

### **Summary Decision**

2. The Tribunal has determined that costs in the sum of £2,598.10 plus VAT were reasonably and properly incurred and are payable by the Respondent to the Applicant.

### **Directions**

3. Directions were issued on 20 October 2021. The Tribunal directed that the parties should submit specified documentation to the Tribunal for consideration.
4. The parties did not request an oral hearing.
5. This determination is made in the light of the documentation submitted in response to the directions. The Respondent declined to take part in these proceedings.

### **The Law**

6. The relevant law the Tribunal took account of in reaching its decision is set out below:

Commonhold and Leasehold Reform Act 2002

#### **Section 88 Costs: general**

(1) A RTM company is liable for reasonable costs incurred by a person who is:

- (a) landlord under a lease of the whole or any part of any premises,
- (b) party to such a lease otherwise than as landlord or tenant,

in consequence of a claim notice given by the company in relation to the premises.

(2) Any costs incurred by such a person in respect of professional services rendered to him by another are to be regarded as reasonable only 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) A RTM company is liable for any costs which such a person incurs as party to any proceedings under this Chapter before a tribunal only if the tribunal dismisses an application by the company for a determination that it is entitled to acquire the right to manage the premises.

(4) Any question arising in relation to the amount of any costs payable by a RTM company shall, in default of agreement, be determined by a tribunal.

## **Consideration and Determination**

### **The Applicant**

7. The Applicant sets out the history of the matter from the application by the Respondent of 15 February 2021 to acquire the right to manage the property.
8. The Applicant has provided a detailed breakdown of the work done, the level of fee earner and hourly rate and disbursements paid, accompanied by relevant invoices.

### **The Respondent**

9. The Respondent declined to take part in these proceedings.

### **The Tribunal**

10. What is in issue in respect of the Applicant's application for costs is whether the costs claimed were reasonably incurred and are reasonable in sum and whether the costs are payable in accordance with the Act of 2002 and whether the Respondent should be required to pay those costs.
11. The Tribunal notes that there is no submission by the Respondent either that any of the costs incurred were not properly incurred in response to the service by it of the Claim Notice or that the costs are not reasonable in their amount. The Tribunal has, nevertheless, gone on to consider those issues.
12. RTM claims are complicated issues. The Tribunal cannot criticise the Applicant for instructing a solicitor, a grade A fee earner, given such complications. The Tribunal notes that the fees claimed by the solicitor do not, however, accord with the rates for grade A fee earners set out in the Guide to the Summary Assessment of Costs issued by Master of the Rolls, Sir Henry Vos, on 1 September 2021. Specifically, an hourly rate is claimed of £385 plus VAT whereas the Guide sets out a figure of £373 per hour plus VAT, which the Tribunal adopts in the absence of any evidence supportive of a different view.
13. The Tribunal has analysed the work conducted by the solicitor, which is helpfully detailed in a schedule and illustrated by relevant documentation in

the Applicant's bundle, and finds that the work detailed was what the Tribunal would have expected to occur given the history and that the time recorded as expended, some 6.8 hours, is reasonable.

14. The Tribunal finds that Section 88(2) is also satisfied as it has noted that the Applicant engaged the same solicitor in relation to other such claims. Further, the Tribunal has noted the complexity involved in RTM claims is a factor likely to lead a party to engage a solicitor of experience.
15. Using the figure for hourly costs from the Guide referred to above, the Tribunal has recalculated the Applicant's costs as follows. 6.8 hours at £373 = £2,536.40 plus postage costs of £7.70 plus Land Registry fees of £74 = a total of £2,598.10. That total plus VAT at 20% = £3,117.72.
16. The costs of £2,598.10 plus VAT claimed by the Applicant arose as a result of the service by the Respondent of its Claim Notice. Having found that the costs were reasonably incurred and that they are a reasonable sum, reflecting the work actually and properly conducted, the Tribunal concludes that they are payable by the Respondent to the Applicant.

#### APPEAL

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.
2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision. Where possible you should send your application for permission to appeal by email to [rpsouthern@justice.gov.uk](mailto:rpsouthern@justice.gov.uk) as this will enable the First-tier Tribunal Regional Office to deal with it more efficiently.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.