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

Case Reference : LON/00BK/OC9/2016/0302

Property : Flat 10 Eagle House, 1 St John's Wood,
London NW8 6JJ

Applicant : Hemani Pathirana

First Respondents : Richard Thomas Piggot Williams
Lucy Giorgiana Piggot Williams

Representative : Boodle Hatfield LLP

Second Respondent : Astonquote Ltd

Representative : Bude Nathan Iwanier solicitors

Type of Application : Costs on extension of lease

Tribunal : Judge Nicol

Date of Decision : 28th March 2017

DECISION

The Tribunal has determined that the amount payable by the Applicant shall be the following:-

- (1) For the Second Respondent's legal costs, £2,000 (plus VAT and a disbursement of £10).
- (2) For the Second Respondent's valuer's fee, the full amount of £300 (plus VAT).

The Tribunal makes no further order as to costs.

Reasons for Decision

1. The Applicant has applied following her request for a new lease for a determination as to the costs recoverable by the freeholder, the First Respondent, and the intermediate landlord, the Second Respondent, in accordance with section 60 of the Leasehold Reform, Housing and Urban Development Act 1993 which is set out in the Appendix to this decision.
2. The Applicant has agreed the First Respondent's costs but disputes:
 - (a) The Second Respondent's legal costs of £2,584 (plus VAT and a disbursement of £10).
 - (b) The Second Respondent's valuer's fee of £300 (plus VAT).

Second Respondent's legal costs

3. The Second Respondent's solicitors provided a much less detailed breakdown of their costs to which the Applicant again replied in both her statement and with detailed comments within the breakdown. The Second Respondent then provided a witness statement dated 17th March 2017 from their solicitor, Mr Samuel Pariente. The Applicant's objections, and the Tribunal's comments, are:
 - (a) The Applicant has objected to some of the costs incurred by the Second Respondent's solicitors on the basis that the First Respondent's solicitors had absolute authority in accordance with the Act and the Court of Appeal's recent judgment in *Kateb v Howard de Walden Estates Ltd* [2016] EWCA Civ 1176. In the Tribunal's opinion, the *Kateb* case does not assist. The costs payable under section 60 of the Act are those of any relevant person, which includes an intermediate landlord. The only question is whether the costs come within section 60(1). The Applicant seems to be under the mistaken impression that the authority vested in the First Respondent by the Act means that they could ignore the Second Respondent and proceed at all times without reference to them. On the contrary, it is entirely appropriate for the Respondents to liaise and, if the costs of doing so come within section 60(1), the Applicant is liable for them. For example, dealing with proposed amendments to the lease clearly come within section 60(1)(c).
 - (b) The agreed lease and the licence for a parking space which the Applicant also held were in the same form as the existing versions, save for the addition of the landlord's right to terminate the new lease on grounds of redevelopment under section 61 of the Act and the limitation on landlord's liability provided for in section 57(8A). The Applicant asserted that, therefore, this was a straightforward claim with no complicating legal or valuation factors. The Tribunal would agree. The Applicant also alleged that the Second Respondent's solicitors

spent an unreasonable amount of time on amendments to the counter-notice. She pointed to the fact that the lack of detail provided in the costs breakdown makes it impossible to identify precisely why some costs were incurred.

- (c) The Applicant alleged that another flat in the same block, number 3, had already been through the lease extension process. She asserted that, therefore, there should have been economies of scale gained by dealing with such a similar matter. The Tribunal would agree but would not expect this to have more than a small effect on costs. Further, the Second Respondent's solicitor, Mr Samuel Pariente, has said in his witness statement dated 17th March 2017 that number 3 was dealt with after or no later than at the same time as the current property.
- (d) The Second Respondent sought two amendments to the lease relating to interest payments and payment of legal costs. Eventually, in the face of the Applicant's objections, they dropped this proposal. The Applicant has objected to paying costs in relation to this. However, the Tribunal has not seen any evidence that the proposals were made in anything other than good faith. A landlord is entitled to seek to protect their client's interests, even if not all of their proposals find their way into the final draft of the lease. Having said that, there is evidence that the Second Respondent tried to insist on their proposals past a time when they could have backed down in the way they ultimately did. A reduction in costs would be appropriate in relation to this issue.

- 4. In the light of the above points, and taking a broad-brush approach, the Tribunal limits the Second Respondent's legal costs to £2,000 (plus VAT and the disbursement of £10).

Second Respondent's valuer's fee

- 5. Mr Andrew Cohen of Talbots Surveying Services Ltd charged the Second Respondent £300 (plus VAT) for his valuation services. The Applicant objected that the valuation was not completed until after service of the counter-notice and Mr Cohen did not have a copy of the head lease when he started. The Tribunal cannot see how either point is relevant. Mr Cohen's fee seems modest and proportionate. The Tribunal cannot identify any reason why it should be reduced.

Costs

- 6. The Applicant sought an order for costs under rule 13 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 but the Tribunal was not satisfied that the Second Respondent acted at any point in a way which could be described as unreasonable within the meaning of rule 13.

Name: NK Nicol

Date: 28th March 2017

Appendix of relevant legislation

Leasehold Reform, Housing and Urban Development Act 1993

Section 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.