



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

**Case Reference** : RC/LON/00AH/oC9/2021/0044

**HMCTS code  
(paper, video, audio)** : P: PAPER REMOTE

**Property** : 38 St James Court, St James' Road, Croydon,  
CR0 2SF

**Applicant** : Brickfield Properties Limited

**Representative** : Wallace LLP

**Respondents** : Kangarathan Nathan and  
Thanarani Dhevi Ratnam-Nathan

**Representative** : -

**Type of Application** : Enfranchisement - costs

**Tribunal Members** : Judge Robert Latham  
Marina Krisko FRICS

**Date and venue of  
paper determination** : 27 July 2021 at  
10 Alfred Place, London WC1E 7LR

---

**DECISION**

---

The Tribunal determines the section 60 statutory costs as follows: (i) Applicant's legal costs £2,160 (inc of VAT); (ii) Disbursements of £131.10 (Land Registry and Courier fees); (iii) Valuation fees: £1,140 (inc of VAT); and (iv) Intermediate Landlord's fees of £264 (inc VAT).

**Covid-19 pandemic: description of hearing**

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The Applicant has provided a Bundle of Documents of 89 pages.

## **Introduction**

1. This is an application by the landlord under sections 60 and 91 of the Leasehold Reform, Housing and Urban Development Act 1993 (“the Act”). The following costs are claimed: (i) Applicant’s legal costs £2,160 (inc of VAT); (ii) Disbursements of £131.10 (Land Registry and Courier fees); (iii) Valuation fees: £1,140 (inc of VAT); and (iv) Intermediate Landlord’s fees of £264 (inc VAT).
2. On 25 March 2021, the Tribunal issued its standard Directions. Pursuant to these, the Applicant has provided (i) a Schedule of Costs (at p.71-2); (ii) evidence of payment of the disbursements (at p.75-79); (iii) an invoice from Robin Sharp, Surveyor (at p.74); and (iv) a breakdown of the costs claimed by the intermediate Landlord (at p.73).
3. On 6 May 2021, the Respondents were directed to file their Statement of Case. They have failed to do so. On 9 June, the Applicant confirmed that it had not received any such Statement.
4. On 19 May, the Applicant filed detailed submissions on costs.

## **The Background**

5. The Applicant, Brickfield Properties Limited, is the head leaseholder of 38-57 St James Court, St James’s Road, Croydon CR0 2SF (the Premises) of which Flat 38 (‘the Flat’) forms part. The Applicant is the Competent Landlord for the purposes of the Act. The Applicant’s lease is subject to a lease for a term of 99 years (plus 4 days) from 29 March 1976. The Lease is held by Fencott Limited, an Intermediate landlord as defined by Section 40(4) of the Act. The Respondents hold a long lease of the Flat for a term of 99 years from the 31 March 1976.
6. On about 25 June 2019, the Respondents served a Notice of Claim pursuant to Section 42 seeking a new lease. The Respondents proposed a premium of £15,889 together with an additional sum of £805 in respect of sums due under Schedule 13.
7. On about 22 August 2019, the Applicant served a Counter-Notice pursuant to Section 45 admitting the Respondents’ entitlement to the grant of a new lease. The Applicant proposed a premium of £32,499 and £1 in respect of sums due under Schedule 13.
8. Following service of the Counter Notice the terms of acquisition remained in dispute between the parties. The Respondents failed to make an application to determine the terms of acquisition pursuant to section 48 of the Act on or before the 21 February 2020. Accordingly, the Notice of Claim is deemed withdrawn pursuant to Section 53 of the Act.
9. The statutory costs payable have not been agreed and on 24 March 2021, the Applicant applied to this tribunal for these costs to be determined.

## **The Statutory Provisions**

10. Section 60 provides, insofar as relevant for the purposes of this decision:

“(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.

.....

(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... or any third party to the tenant's lease.”

## **The Principles**

11. In *Metropolitan Property Realisations v Moss* [2013] UKUT 415, Martin Rodger QC, the Deputy President, gave the following guidance on the approach to be adopted:

“9. These provisions are straightforward and their purpose is readily understandable. Part I of the 1993 Act is expropriatory, in that it confers valuable rights on tenants of leasehold flats to compel their landlords to grant new interests in those premises whether they are

willing to do so or not. It is a matter of basic fairness, necessary to avoid the statute from becoming penal, that the tenant exercising those statutory rights should reimburse the costs necessarily incurred by any person in receipt of such a claim in satisfying themselves that the claim is properly made, in obtaining advice on the sum payable by the tenant in consideration for the new interest and in completing the formal steps necessary to create it.

10. On the other hand, the statute is not intended to provide an opportunity for the professional advisers of landlords to charge excessive fees, nor are tenants expected to pay landlords' costs of resolving disputes over the terms of acquisition of new leases. Thus the sums payable by a tenant under section 60 are restricted to those incurred by the landlord within the three categories identified in section 60(1) and are further restricted by the requirement that only reasonable costs are payable. Section 60(2) provides a ceiling by reference to the reasonable expectations of a person paying the costs from their own pocket; the costs of work which would not have been incurred, or which would have been carried out more cheaply, if the landlord was personally liable to meet them are not reasonable costs which the tenant is required to pay.

11. Section 60 therefore provides protection for both landlords and tenants: for landlords against being out of pocket when compelled to grant new interests under the Act, and for tenants against being required to pay more than is reasonable.”

### **The Tribunal's Determination**

12. The Tribunal determines the section 60 statutory costs in the sums sought by the Applicant:

(i) Applicant's legal costs £2,160 (inc of VAT): A Schedule of Costs has been provided at p.71-72. The Schedule totals £2,460.30. The Applicants have reduced their claim to £2,160.

(ii) Disbursements of £131.10 (Land Registry and Courier fees). Details of these disbursement have been provided (at p.75-9).

(iii) Valuation fees: £1,140 (inc of VAT): An invoice from Robin Sharp, Surveyor, dated 10 March 2020, is at p.74. He claims £950 + VAT.

(iv) Intermediate Landlord's fees of £264 (inc VAT): A breakdown of these costs is at p.73.

13. It is for the Respondents to raise any grounds of challenge. They have failed to do so. The sums claimed fall within the scope of those permitted by the Act.

**Judge Robert Latham,**

**27 July 2021**

## **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).