

547



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

Case Reference : CHI/29UG/LCP/2015/0004

Property : Flats A,B,C 116 London Road, Gravesend,
Kent DA11 9LZ

Applicant : 116 London Road RTM Company Limited

Representative : Ms Becky Chipere

Respondent : Assethold Limited

Representative : Eager Estates Ltd

Type of Application : Landlord's costs: Commonhold and
Leasehold reform Act 2002 S. 88(4)

Tribunal Member(s) : Mr D Banfield FRICS

Date of Directions : 18 February 2016

DECISION

The Tribunal determines that the sums which are the subject of this application and are contained in paragraph 1 of this decision are not payable.

Background

1. In 2008 the Applicant RTM Company gained the right to manage 116 London Road, Gravesend (the property). In 2014 the freeholder wrote to the three leaseholders requesting payment of £411, £2,409.09 and £554.15 respectively. The Applicant has failed to obtain details of how these costs become to be chargeable and now seeks a determination from this Tribunal as to whether the sums claimed are reasonable.
2. The Tribunal made Directions on 1 September 2015 requiring the Respondent by 22 September 2015 to send to the Applicants a statement setting out full details of its claim for costs to:
 - The name, status and experience of the fee earner(s) concerned with the case
 - The charging rate sought, the dates and number of telephone calls made and letters written and details of time spent
 - Any work-in-progress print outs or other time records
 - A copy of all bills rendered to the receiving party in respect of the matter and a copy of all invoices/receipts for disbursements
 - Evidence that the amount being sought does not exceed the amount it is liable to pay to its lawyers/representatives
 - Where possible, this statement shall be accompanied by an electronic summary in the attached format so that the Applicant and the Tribunal may subsequently add its comments in the appropriate columns
3. By a letter to the Tribunal dated 21 September 2015 from Eager Estates the Respondent enclosed a copy of the Tribunal's determination dated 31 January 2010 by which S.8(4) costs were said to be determined at £419.48 and which had not been paid. The Respondent therefore asked the Tribunal to award interest at 8% under S69 of the County Court Act 1984 and Costs for dealing with the new application which was described as an abuse of process as the matter had already been determined. The letter was asked to be accepted as the Respondent's case.
4. By a letter dated 29 September 2015 the Tribunal declined to dismiss the application on the grounds that the sums now demanded by the Respondent were in excess of £3,000 whereas the Tribunal's decision referred to determined that the amount payable was £357 plus VAT less reimbursement of £250 Tribunal fees, a total of £125.73.
5. A letter from Ms Becky Chipere dated 5 November 2015 enclosed the following:
 - Letters from Eager Estates demanding payments for;
 1. Ground floor flat, 24 July 2014 £1,772.01

2. Ground floor flat, 5 June 2015, £2,454.09
3. Upper Maisonette, 14 July, £604.13
4. Upper Maisonette, 5 June 2015, £604.13
5. Lower flat, 5 June 2015, £456.25

- Various emails to the Respondent requesting details as to the make of the sums demanded.
- A County Court claim for £2,409.09 for the ground floor flat.
- The Order dismissing the claim dated 15 May 2015

Decision

6. The Respondent has failed to engage with the process and the Tribunal is faced with determining the matter with very little information.
7. The Applicant has told us that the amounts demanded in 2014 and referred to in paragraph 1 above were said by Eager Estates to be “in respect of the RTM process” In the absence of any challenge to that explanation the Tribunal accepts this to be the case.
8. The Tribunal’s decision of 31 January 2010 (CHI/29UG/LAC/2009/0011) determined that the RTM Company was liable for £257 plus VAT in respect of S.88 costs, £100 plus VAT in respect of S27A matters but that the Respondent should reimburse the Applicant’s £250 Tribunal fee. Thus leaving a balance of £125.73.
9. The sums demanded are well in excess of the sums determined in the Tribunal’s decision. No explanation has been provided by the Respondent as to how those sums have arisen and why it has taken some four years to demand them.
10. The demand of £2,404.09 in respect of the ground floor flat has been dismissed by the County Court.
- 11. The Tribunal therefore determines that the sums which are the subject of this application and are contained in paragraph 1 of this decision are not payable.**
12. Nothing in this decision affects any liability the individual lessees may have in respect of payments of Ground Rent, a matter which is not within the jurisdiction of this Tribunal.

D Banfield FRICS
18 February 2016

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. 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.

2. 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.
3. 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.