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Tradition with a modern edge

Our ref: AJ/je/23208/2

Your ref:

Date: 11 August 2008

Ms N Y S Klosterkotter-Dit-Rawe

Posted on 13 August  
Took delivery on 14 August.

Dear Madam

**ROOTSTOCK OVERSEAS CORP -V- YOURSELF**  
**WEST LONDON COUNTY COURT**  
**CLAIM NO. 7WL00675**

We acknowledge receipt of your claim for costs and enclose our Points of Dispute in respect of the same.

We look forward to hearing from you.

Yours faithfully,

  
**PORTNER**

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# Portner

IN THE WEST LONDON COUNTY COURT

CLAIM NO: 7WL00675

BETWEEN:

ROOTSTOCK OVERSEAS CORP.

Claimant

-and-

NOELLE YVONNE SYLVIE KLOSTEROTTER-DIT-RAWE

Defendant

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CLAIMANT'S POINTS OF DISPUTE WITH REGARD TO THE DEFENDANT'S BILL OF COSTS DRAWN PURSUANT TO  
NOTICE OF DISCONTINUANCE DATED 6<sup>TH</sup> JUNE 2008.

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Shld read 'Defendant'

Item No.	Dispute	Defendant's Comments
1.1	<u>Costs Claimed Generally</u> The Defendant, a Litigant in Person, has an entitlement to recover from the Claimant standard basis costs following the filing by the Claimant of a Notice of Discontinuance on 6 <sup>th</sup> June 2008.	
1.2	By way of background the Claimant's claim, which was issued on 27 <sup>th</sup> February 2007, related to the non payment of monies due under a lease dated 10 <sup>th</sup> March 1986. The claim was made for a total of £10,356.59 including Solicitor's costs and Court fees.	

NB: Paragraph numbering added by the claimant

Item No.	Dispute	Defendant's Comments
1.3	The matter was subsequently allocated to the fast track.	
1.4	During June of 2008 advice was obtained from Counsel wherein it was found that the demand for ground rent and service charges served by the Managing Agent had given the incorrect identity and address for the landlord and was therefore invalid pursuant to Section 47 of The Landlord and Tenant Act 1987. It was as a direct result of this that Notice of Discontinuance was filed.	
1.5	When considering the Defendant's reasonable and proportionate costs the Court should have regard to the factors set out within CPR Part 44.4 and CPR Part 44.5.	
1.6	The Court should also give regard to the factors set out within CPR Part 48.6 and the Practice Direction in respect thereof.	
1.7	<p>The Court is advised that the following interlocutory Orders for Costs were "silent as to costs" and therefore the Defendant has no entitlement to recover the costs thereof. Reference is made to CPR 44.13 in respect of the Orders made on the following dates:</p> <p>19<sup>th</sup> April 2007, 1<sup>st</sup> May 2007, 3<sup>rd</sup> May 2007, 19<sup>th</sup> December 2007, 7<sup>th</sup> March 2008 &amp; 1<sup>st</sup> May 2008.</p>	
1.8	In addition by way of the Order made on 24 <sup>th</sup> August 2007 costs were summarily assessed in the Claimant's favour in the sum of £293.70. Again the Defendant has no entitlement to recover such costs.	

Item No.	Dispute	Defendant's Comments
1.9 1.10 1.11 1.12	<p>The Claimant is greatly concerned to note that seemingly much of the work which has been claimed for within the Defendant's Bill of Costs does not specifically relate to work undertaken in respect of Claim No: 7WL00675 and the Court is requested to scrutinise in detail each and every claim for costs made.</p> <p>The Defendant's Bill totals £7,756.03.</p> <p>Unfortunately the Defendant's Bill of Costs fails to comply with the requirements of CPR Part 43 and the Practice Direction thereto and therefore this hampers the Claimant's ability to consider the reasonableness of each and every individual claim for costs made.</p> <p>The Court is requested to consider in detail the individual claims for time spent and work undertaken in respect of any claims made for loss of pay/personal time so as to confirm that such time is considered to be properly chargeable inter partes and relates solely to the matters relevant to Claim No: 7WL00675. It is the Claimant's submission that costs have been claimed relating to issues for which the Defendant is not entitled to recover costs.</p>	
2.1 2.2	<p><u>Loss of Pay</u></p> <p>The Claimant queries the Defendant's ability to claim for loss of pay. If this amounts to a claim for pecuniary loss then the Claimant is requested to provide detailed evidence in support thereof so as to confirm that this claim is justified.</p> <p>At this stage the Claimant opposes the claims made for loss of pay.</p>	

Item No.	Dispute	Defendant's Comments
2.3	The Claimant accepts the hourly expense rate charge of £9.25 per hour in respect of work undertaken conducting the claim in so far as the work undertaken and time spent is justified as being reasonable on the standard basis.	
3	<p><u>Postage Costs</u></p> <p>The Claimant is requested to provide brief details of each individual claim for postage costs made so as to confirm that such costs are justified as being reasonable inter partes. Reference is made to the claims for costs at items:</p> <p>10, 17, 24, 30, 35, 42, 47, 52, 67, 73, 102, 108, 113, 118, 119, 120, 125, 130, 135, 140, 145, 154, 158, 163, 168, 173, 182, 186, 191, 196, 205, 209 &amp; 214.</p>	
4	<p><u>Printing Costs</u></p> <p>The Claimant seeks further details in respect of the costs claimed at items:</p> <p>16, 23, 29, 62, 72, 101 &amp; 107.</p>	
5	<p><u>Stationery Supplies</u></p> <p>The Claimant seeks further details in respect of the costs claimed at items: 222 - 230</p>	

Item No.	Dispute	Defendant's Comments
<p>6.1</p> <p>6.2</p>	<p><u>Loss of Pay/Personal Time</u></p> <p>The Claimant does not consider that the Defendant is able to charge for both personal time charged at £9.25 per hour and what may be perceived as loss of pay time at £36.26 per hour.</p> <p>The Court is requested to scrutinise the individual claims made for time spent at items:</p> <p>9, 14, 15, 21, 22, 27, 28, 34, 40, 46, 51, 56, 61, 66, 71, 93, 97, 100, 106, 112, 117, 124, 129, 134, 139, 144, 149, 153, 157, 162, 167, 172, 177, 181, 185, 190, 195, 200, 204, 208, 213 &amp; 217.</p>	
<p>7</p>	<p><u>Hearing Dated 24<sup>th</sup> August 2007</u></p> <p>As previously advised an Order for Costs was made in the Claimant's favour upon this date wherein costs were summarily assessed in the sum of £293.70.</p> <p>The Defendant is not entitled to recover such costs the costs incurred in connection therewith, i.e. those claimed at items: 80, 82, 83 &amp; 86, should be excluded from the Bill of Costs in their entirety.</p>	
<p>8.1</p>	<p><u>Interest on Loss of Pay</u></p> <p>The Claimant sees no reason as to why the Defendant should recover any interest on loss of pay and as such no offer is put forward in respect of the claim made at item 243 in the sum of £218.37.</p>	

Item No.	Dispute	Defendant's Comments
8.2	The Claimant reserves the right to raise further Points of Dispute should it become necessary to do so during the course of the Detailed Assessment Hearing.	

Dated the .....August 2008

Not signed, and not dated

Signed.....  
A Partner in Portner & Jaskel LLP

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Solicitors for the Claimant

