



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

**Case Reference** : **MAN/00CX/LBC/2015/0022**

**Property** : **7 Old Souls Mill, Micklethwaite Lane,  
Crossflatts, Bingley, BD16 2AN**

**Applicant** : **King Cole Mills Management Co. Ltd**  
**Represented by** : **Town & City Management Ltd**

**Respondent** : **(1) Richard Constantine Czornowol  
(2) Susan Mary Heal**

**Type of Application** : **Commonhold and Leasehold Reform Act 2002  
Section 168(4)**

**Tribunal Members** : **Judge Phillip Barber;  
Ms Jenny Jacobs, MRICS**

**Date of Decision** : **26 January 2016**

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**DECISION**

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1. By an application to the Tribunal, the Applicant has applied under section 168(4) of the Commonhold and Leasehold Reform Act 2002 for an order of the Tribunal that a breach of the lease has occurred.
2. The Respondents hold a long lease of the property purchased in January 2006 for £165,000 and the Applicants are the landlords. The lease which is dated 20 July 2006 is contained within the bundle and is for a term of 125 years.
3. Section 168 provides as follows:
  - (1) A landlord under a long lease of a dwelling may not serve a notice under section 146(1) of the Law of Property Act 1925 (c. 20) (restriction on forfeiture) in respect of a breach by a tenant of a covenant or condition in the lease unless subsection (2) is satisfied.
  - (2) This subsection is satisfied if—
    - (a) it has been finally determined on an application under subsection (4) that the breach has occurred,
    - (b) the tenant has admitted the breach, or
    - (c) a court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post-dispute arbitration agreement, has finally determined that the breach has occurred.
  - (3) But a notice may not be served by virtue of subsection (2)(a) or (c) until after the end of the period of 14 days beginning with the day after that on which the final determination is made.
  - (4) A landlord under a long lease of a dwelling may make an application to a leasehold valuation tribunal for a determination that a breach of a covenant or condition in the lease has occurred.
4. The Application for a determination has been brought on the basis that the Applicant claims that the Respondent has breached a term of the lease by allowing a dog to be kept on the premises.
5. No reliable evidence as to the existence of a dog being kept at the property has been provided to the Tribunal. So for example, there are no dates or details of sightings of this dog, no evidence of times when barking has been heard and no evidence from adjoining occupiers about hearing barking and such like. This is the sort of evidence that the Tribunal might expect in relation to an application of this nature.

6. Instead all that has been provided to substantiate the claim are letters from the managing agents within the bundle which indicate that this has been an issue, for example, that “a dog has been seen within your apartment...” (see the letter at section 6 of the Applicant’s bundle).
7. The Respondents fully sublet the apartment to a tenant, Mr Richard Chappel, under an assured shorthold tenancy agreement. The Respondents have sought enquiry of their tenant in relation to the sightings of a dog in the apartment. The tenant denies keeping a dog at the premises.
8. Accordingly, the Tribunal is satisfied on the basis of the evidence before it that no dog has been kept at the apartment by the Respondents or their tenant at any point in time and accordingly the application is refused.
9. In passing the Tribunal point out that the terms of the lease are that a dog (or other similar pet, for that matter) is not to be kept at the apartment in contravention of the lease. It is not a breach of the lease for a dog to visit (with its owner) the apartment from time to time.
10. A copy of this determination in all fairness should be provided to the tenant, Mr Richard Chappel by the Respondents.