



**Residential
Property**
TRIBUNAL SERVICE

**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL
COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

LON/00BG/LBC/2008/0014

Premises: 33 Brion Place
London E14 0SR

Applicant: Poplar HARCA Ltd

Represented by: Mr Brayshaw

Respondents: Mr V Stoyanov
Ms R Barden

Represented by: Mr Stoyanov in person
Mr Legister for Ms Barden

Tribunal: Mr NK Nicol
Mr WJ Reed FRICS
Mrs J Clark JP

Date of Hearing: 23/07/08

Date of Decision: 29/07/08

Tribunal were also provided by both sides with DVDs. The Applicant's contained four video clips of the two Respondents talking to some occupants of the property on one occasion. Mr Stoyanov's contained various extraneous documents but also some lengthy audio clips, apparently of incidents at the property although the Tribunal did not identify anything of any relevance in them. The Applicant and each of the Respondents also provided their own separate bundles of documents.

4. The Tribunal was able to form a view of each of the witnesses from the available documentary evidence and their demeanour when giving oral evidence. The Applicant's witnesses were coherent and credible and the Tribunal accepted their evidence in full. Mr Stoyanov, in contrast, was incoherent, rambling, evasive and lacked any credibility whatsoever. His written statements were the same and were very difficult to read or follow. His version of events, as discussed further below, lacked any consistency or inherent credibility. Apart from matters which were otherwise corroborated by some other credible evidence, the Tribunal could not accept anything Mr Stoyanov said. Ms Barden had provided a written witness statement but, since she did not attend, the Tribunal was obliged to give it less weight.

Overcrowding

5. The Respondents were assigned the lease on 29th June 2007. It appears that from the start, Mr Stoyanov let out some of the rooms to tenants. This is, of course, not a breach of the lease and did not appear to be the cause of any complaint. However, problems started after Mr Stoyanov advertised the rooms on a popular website called Gumtree at the end of 2007 or the beginning of 2008. A number of young foreigners living, studying or working in the UK responded to the advert. The Tribunal were provided with e-mail correspondence between some of them and Mr Stoyanov, included in which Mr Stoyanov stated,

“Put in £192, which is the 1 month rent and include all bills paid. Then when you move in another 1 month ahead (which will stay in my account till your contract finish).”

“:) all ok, the money are ok, so you are booked

when are you coming, and do you need me to come and drive you home?

ps: you will sign some paper when you come, don't worry"

6. Mr Stoyanov made arrangements for a number of these people to come to live at his property. In preparation for their arrival, he partitioned the living room into two partially-separated rooms – before the Tribunal he referred to this partitioned space as two bedrooms. He then bought eight bunk beds (possibly at Ms Barden's expense), each with two bed spaces, and placed them in the four bedrooms and each of the two partitioned spaces in the living room. It should be noted that the property had one bathroom and a separate WC.
7. On or about 7th March 2008 two people who were now amongst those occupying the property went to see the police. They claimed that Mr Stoyanov had let the property to 16 or 17 people. They complained that they did not feel safe there and that Mr Stoyanov was trying to impose ridiculous terms. PC Lambert and Mr Lock were amongst those who went to investigate. Both of them gave evidence that they saw the bedroom and bunk bed arrangement as described above.
8. The police recorded, and Mr Stoyanov insisted before the Tribunal, that the occupants of the property were not tenants but "guests" who were not paying rent but "donations". Before the Tribunal, Mr Stoyanov also insisted that a number of the occupants entered without his knowledge or consent at the invitation of other occupants.
9. It appears that none of the occupants had written agreements when they entered but Mr Stoyanov wanted them to sign one of his own drafting. He showed a copy of this to the Tribunal. He asserted that it was not a contract (although both he and Ms Barden referred to it as one in the video clips) but what he called a "mutual agreement". He was not able to identify any substantive difference between a contract and a mutual agreement. The written document is bizarre and reflects the same incoherent and rambling approach of Mr Stoyanov's referred to above. It is not surprising that none of the occupants wished to sign it.
10. In the video clips provided by the Applicant, apparently filmed by one or more of the occupants, Ms Barden and Mr Stoyanov are seen in the property meeting with 16 occupants trying to get them to sign the written agreement. Mr Stoyanov is seen to tell them that, if they don't sign, they must leave the property

immediately. A number of the occupants respond that they are willing to leave but want their money back – Mr Stoyanov is seen refusing to do this unless they each provide their bank details and stating that, although he took money in cash before, that was a “favour” and he would not do it now. Ms Barden is seen to say that they cannot get their money back unless they first give notice and that, if they want proper agreements, the “rent” can be doubled because “that is the law”.

11. Mr Stoyanov sought to evict all the occupants. By a “Notification” dated 7th April 2008, he addressed them all as “squatters” and requested that they leave on or before 15th April 2008. At some point, Mr Lock is said to have advised the occupants that they were within their rights as tenants or licensees not to leave if they did not want to – Mr Lock himself said that his manger, Roger Sheldrick, had written a letter to the occupants advising them of their rights. Mr Stoyanov made great play of this as if it somehow demonstrated that the presence of so many people in his property was the Applicant’s fault. However, the advice was standard legal advice which anyone in their position might be expected to give in the circumstances.
12. Eventually, all the occupants did leave. Mr Legister and Mr Stoyanov said that this involved paying their money back and/or arranging alternative accommodation. Mr Stoyanov also said that both he and Ms Barden paid them money so that some of them were paid twice what they were owed.
13. The evidence shown to the Tribunal pointed overwhelmingly in one direction, namely that Mr Stoyanov had rented the rooms in the property to at least 16 people for high rents. If they were not tenants, on the basis that they did not have exclusive possession, then they were contractual licensees. The fact that the arrangements were oral, rather than written, is completely irrelevant. The proposed written agreement claimed that Mr Stoyanov lived in the property but it is clear that he did not (apart from anything else, there would have been no room for him) although it is equally clear that he felt he had the right to come and go as he pleased. Mr Stoyanov’s references to “donations” instead of rent, “mutual agreement” instead of contract, etc. cannot turn the nature of the arrangements into something that they were not – it is not the labels put on them that count but the substance. It is clear that Mr Stoyanov was trying to use these transparent devices to try to avoid his legal responsibilities. The fact that Mr Stoyanov tried

to make patently ridiculous claims that this was other than the case is one of the reasons for the above conclusion about his complete lack of credibility.

14. Ms Barden's role in these matters is less clear and it is a matter of some regret that she felt unable to attend to present her evidence in person. It is possible that she did not know of Mr Stoyanov's activities until after he had allowed the 16 or so people into the property. However, it is clear from the video clips that, once she knew of their presence, she supported Mr Stoyanov's approach. She owns a small portfolio of rented properties and, therefore, is almost certainly aware of the niceties of letting property. This did not stop her playing her part in trying to get the occupants to sign Mr Stoyanov's bizarre agreement by making what she must have known were blatantly false claims about "proper agreements" and doubling the rent. The Tribunal is satisfied that, if Ms Barden did not know of the overcrowding when it started, she played her role in trying to continue it before she eventually made arrangements for the occupants to leave.
15. According to the Applicant, the tenancy agreement which applied before the lease was granted specified a maximum of seven occupants. The Applicant relied on this as showing that, with 16 or more people in the property, the Respondents had breached paragraph 1 of the Fourth Schedule to the lease. The Tribunal cannot accept the previous tenancy agreement as a relevant provision for the purposes of that paragraph. However, under Part X of the Housing Act 1985 this property would be overcrowded when occupied by more than ten people (Table I in s.326). It is also clear that, with at least 16 people occupying a property with only one bathroom, kitchen and WC, the overcrowding would constitute a hazard as defined by the Housing Health and Safety Rating System under the Housing Act 2004. The Applicant also asserted that, as a house in multiple occupation, a licence would be required although they did not support this by reference to the relevant statutory provisions.
16. This analysis leads to the inevitable conclusion that there has been a breach of paragraph 1 of Sch.4 to the lease in that both Mr Stoyanov and Ms Barden permitted the property to be in multiple occupation without ensuring that all statutory regulations and provisions relating to overcrowding were observed.

Insurance

17. The lease contains the usual covenants for the Applicant to insure the building. They claim that the overcrowding discussed above potentially voids that insurance so that there has been a breach of paragraph 4 of the Fourth Schedule to the lease. The Applicant did not bring a copy of the insurance policy but the Tribunal is satisfied that the point is so obvious that this is not necessary. There is not an insurance company for whom overcrowding on the scale permitted here would not be a significant problem. The Tribunal is satisfied that the overcrowding could potentially render the buildings insurance void or voidable or possibly cause the premium to increase so that there has been a breach of covenant.

Camper Van in Rear Garden

18. Mr Stoyanov is a student of genetics at Queen Mary College, University of London. He told the Tribunal that he had needed a library for his studies and that, for this reason, he had provided for himself what he called an iron shed in the rear garden of the property. He did this by removing railings and fencing at the rear of the property to allow in a camper van. He removed the wheels and the motor and cemented it in place. He then arranged an electricity supply by running wires from the property to the camper van. According to the police, inside were a bed, a microwave oven, a washing machine, other appliances and documents in Mr Stoyanov's name.
19. Mr Stoyanov claimed that he asked the Applicant for permission for what he did with the camper van. Incredibly, he claimed not to know whether he did so before or after putting it there. In any event, on 21st September 2007 the Applicant wrote to the Respondents asking him to remove it. Mr Stoyanov received correspondence from the local planning authority, the London Borough of Tower Hamlets, from which he understood that they wanted him to remove it as well. When Ms Barden saw the camper van, she claimed to have been shocked at what had happened. Between them, she and Mr Stoyanov arranged for its removal.

20. The Applicant has claimed that Mr Stoyanov's arrangement with the camper van contravened planning regulations and, therefore, that there had been a breach of clause 3(11) of the lease. However, it is not clear that there has been a planning breach. The Applicant did not provide any planning materials on which the issue can be judged. Unlike the overcrowding provisions, the Tribunal cannot claim any relevant expertise which could fill in the gap in knowledge on this subject.
21. The Tribunal comments that it is concerned at the way that the Applicant chose to prepare and present its case. Mr Stoyanov's behaviour has been such that it is fairly obvious he has done wrong, but that does not excuse the Applicant from putting its case carefully and thoroughly, even allowing for the relatively short time in which they had to do so. The Applicant had to abandon two of its original claims because they had not brought sufficient evidence (see paragraph 1(d) and (e) above) and now this item fails for similar reasons. Further, the Applicant had sought to say that the camper van arrangement could endanger the buildings insurance but that is not as obvious as with the overcrowding and the Tribunal cannot be satisfied there has been a breach of covenant in this respect without further evidence, including the policy of insurance.

Conclusion

22. The Tribunal is satisfied that there have been the following breaches of covenant:-
- (a) The Respondents permitted overcrowding at the property in breach of paragraph 1 of the Fourth Schedule to the lease.
 - (b) That overcrowding potentially renders the buildings insurance void or voidable so that the Respondents have also breached paragraph 4 of the Fourth Schedule.
23. Both Ms Barden and Mr Stoyanov sought to bring in mitigating circumstances for any breaches and claimed that the breaches had now been remedied. These are not matters for the Tribunal. Relief from forfeiture is a matter for the courts.
24. Mr Stoyanov also said he had a counterclaim for £10,000. The Tribunal cannot see that he has any basis whatsoever for such a claim but, again, this is not a

matter for the Tribunal. To the extent that he has a cause of action, he will have to pursue it through the courts.

Chairman.....*N.K. Noel*

Date 29th July 2008