



Residential  
Property  
TRIBUNAL SERVICE

Case reference: LON/00AE/LBC/2009/0043

**DECISION OF THE LONDON LEASEHOLD VALUATION TRIBUNAL ON A  
MATTER REFERRED TO THE TRIBUNAL UNDER PARAGRAPH 3 OF  
SCHEDULE 12 TO THE COMMONHOLD AND LEASEHOLD REFORM ACT  
(SECTION 168(4) OF THE COMMONHOLD AND  
LEASEHOLD REFORM ACT 2002)**

**Property:** 18 Medway Gardens, Wembley, Middlesex  
HA0 2RN

**Claimant:** Stadium Housing Association Limited

**Defendants:** Grace Peters and Oliver Bellot

**Date of transfer:** 20 May 2009

**Date heard:** 27 July 2009

**Appearances:** M Baumohl, counsel, instructed by Hodders, solicitors,  
Hakan Nuhi, surveyor,  
Victoria Boateng, Senior Leasehold Management Officer  
L Powell, Management Officer  
U Francis-Loving  
for the claimant

No appearance for the defendants

**Tribunal:** Margaret Wilson  
Trevor Sennett MA FCIEH  
Lucy West

**Date of decision:** 27 July 2009

## **Background**

1. This is a landlord's claim in the Willesden County Court which has been transferred to the tribunal under paragraph 3 of Schedule 12 to the Commonhold and Leasehold Reform Act 2002 ("the Act"), the tribunal being the appropriate forum to determine, in accordance with section 168(4) of the Act, the issue raised in the claim, which is whether a breach of a covenant or condition in the tenants' lease has occurred.

2. Pre-hearing directions were made by the tribunal on 10 June 2009. The landlord was directed to, and did, lodge with the tribunal and serve on the tenants a bundle of documents. The defendants ("the tenants") were directed to serve and lodge documents by 10 July 2009. They did not comply with the directions and have lodged no documents. Shortly before the hearing they asked for an adjournment of the hearing in order to attempt a mediated settlement, which was refused.

3. At the hearing on 27 July 2009 the landlord was represented by M Baumohl of counsel, instructed by Hodders, solicitors. Hakan Nuhi and Victoria Boateng, whose witness statements had been lodged, attended, as did other officers of the landlord. The tenants did not attend.

4. We were satisfied that the tenants had been given notice of the hearing because they have contacted the tribunal to apply for an adjournment and we were in the circumstances content to proceed in their absence in accordance with regulation 14(8) of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003.

## **The facts**

5. 18 Medway Gardens is a semi-detached two storey house, built in the 1930s. It is held by the tenants on a shared ownership lease by which they covenant, in clause 3(3), *To keep from time to time and at all times during the*

*term the premises clean and well and substantially repaired and maintained (damage by fire and other risks insured under Clause 4(2) excepted unless such insurance shall be vitiated by any act or default of the Leaseholder); and, in clause 3(6)(a), Not to make any alterations or additions to the exterior of the premises or any structural alterations or additions to the interior of the premises nor to erect any new buildings thereon nor in any way to interfere with the outside of the Premises nor to remove any of the landlord's fixtures from the Premises.*

### **The law**

6. By section 168(4) of the Act 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 covenant or condition in the lease has occurred. The tribunal's jurisdiction does not extend to consideration of the consequences of such breaches as are established (see *Swanston Grange (Luton) Management Limited v Langley-Essen* (LRX/12/2007) and *GHM (Trustees) Limited v Glass* (LRX/153/2007)).

### **Decision**

7. It is quite apparent from the evidence of Hakan Nuhi to which are attached a number of recent photographs of the property that it is neither clean nor in a reasonable state of repair. It is further apparent that structural walls have been removed on the first floor of the property. In these circumstances we are in no doubt that breaches of clauses 3(3) and 3(6)(a) have occurred.

### **Reimbursement of fees**

8. We have in mind to make an order under regulation 9 of the Leasehold Valuation Tribunals (Fees) (England) Regulations 2003 requiring the tenants

to reimburse the hearing fee of £150 which the landlord has paid. Since the tenants are not on notice that an application for reimbursement of the fee would be made, and since we do not know whether the tenants are in receipt of any of the benefits as are mentioned in regulation 8(1) of the Fees Regulations, the tenants may within **14 days of this decision** send written representations as to why they should not reimburse the hearing fee to the landlord. We will then decide whether an order should be made for reimbursement of the fee.

CHAIRMAN:.....

DATE: 27 July 2009