



Residential
Property
TRIBUNAL SERVICE

**SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: CHI/45UH/LBC/2010/0004

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN
APPLICATION UNDER SECTION 168(4) OF THE
COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

**Premises: Flat 96, Stoke Abbott Court Stoke Abbott Road Worthing West
Sussex BN11 1HJ**

Applicants: Swanlane Estates Ltd (Landlords)

Respondents Anthony Mark James (Tenant)

Date of paper determination : 22 March 2010

Date of Decision: 26 March 2010

Leasehold Valuation Tribunal: Mrs F J Silverman Dip Fr LLM

DECISION

The Tribunal declares that the Tenant is in breach of the covenant contained in 3(xiv) of his lease. The Tribunal declines to make an order for ~~cots~~ in this matter.

Cos/s

REASONS

1 The Applicant is the landlord of the premises known as : **Flat 96, Stoke Abbott Court Stoke Abbott Road Worthing West Sussex BN11 1HJ** (the property). The Respondent Tenant is the current leaseholder under a lease dated 9 September 1983 and made between Kilbale Ltd (1) and Amy Winifred Brackley (2) (the lease).

2 By an application dated 27 January 2010 the Applicant sought a declaration from the Tribunal that the Respondent is in breach of covenant in relation to the provisions contained in Clause 3(xiv) of the lease.

3 The parties agreed that the matter should be dealt with on a paper hearing and the Tribunal took into account the bundle of documents and statements supplied by both parties.

4 The Tribunal did not consider it necessary to inspect the property.

5 By clause 3(xiv) of the lease the tenant covenants : ' ... to keep and use the demised premises as and for a private residence for the sole occupation of the tenant his family and members of his household and for no other purposes whatsoever'.

6 On 27 January 2010 the Applicant wrote to the Respondent informing him of their intention to make an application to the Leasehold Valuation Tribunal for a declaration under s 168(4) Commonhold and Leasehold Reform Act 2002 on the grounds that the Respondent was in breach of the terms of his lease.

7 Mr Matthey's statement (for the Respondent) dated 24 February 2010 states that he visited the property on 17 February 2010 where the door was opened to him by a 'young lady' and a man who called himself Arron was also in occupation. The Respondent was not at the property.

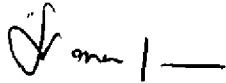
8 The Respondent's response to the application takes the form of a single page letter dated 12 March 2010 in which he asserts that the present 'tenant' (his word) is Arron Tear . The Applicant asserts that he is currently living at the property but has produced no evidence to support this. He also contends that the tenant is 'a foster son of mine' but has produced no evidence to verify the relationship between himself and his tenant .

9 The Applicant, by letter to the Respondent dated 17 February 2010, asked the Respondent to produce evidence of valid service of the notice which the Respondent purports to have served on his tenant terminating the latter's tenancy.

10 No response has been received by the Applicant to that request. Even if such a notice of termination had been validly served by the Respondent , it would not take effect until April 2010 (assuming that the tenant then vacated the property timeously and voluntarily) and thus as at the date of this determination a tenant is, and is admitted by the Respondent to be, in occupation of the property.

11 Since the Respondent has admitted the property is tenanted, has failed to produce any evidence of his own occupation nor evidence of any family connection between himself and his tenant , the Tribunal concludes that the Respondent is in breach of Clause 3 (xiv) of his lease and makes a declaration to that effect.

12 The Tribunal declines to make an order for costs as requested by the Applicant. The Applicant has produced no evidence to demonstrate the level of their costs and the Tribunal has no evidence of the Respondent's means.

A handwritten signature in black ink, appearing to read 'Frances Silverman', followed by a horizontal line.

Frances Silverman
Chairman

26 March 2010

**IN THE LEASEHOLD VALUATION TRIBUNAL
Case Reference:CHI/45UH/LBC/2010/0004**

**AND IN THE MATTER OF Flat 96, Stoke Abbott Court Stoke Abbott
Road Worthing West Sussex BN11 1HJ**

BETWEEN

Swanlane Estates Ltd (Landlords) Applicant

-and-

Anthony Mark James (Tenant) Respondent

**DECISION IN RELATION TO THE RESPONDENT 'S APPLICATION FOR LEAVE
TO APPEAL**

Tribunal: Mrs FJ Silverman Dip Fr LLM Solicitor

DECISION

The Tribunal refuses the Respondent 's application for leave to appeal in this matter for the reasons set out below. That being the case, it is open for to the Respondent to renew his application for leave to appeal to the Lands Tribunal within twenty-eight days of the date when this decision is sent to him.

REASONS

1 By letter dated 10 April 2010 the Respondent appealed against the decision of the Tribunal promulgated on 26 March 2010.

2 The Respondent 's appeal raises no new issues, it merely recites the same facts which were before the Tribunal at the date of the determination. The Respondent needed to prove that the sub-tenant in his property was a member of his family, he failed to show any evidence of this at the time of the original decision and has not produced any to date.

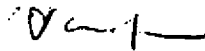
3 The Respondent 's appeal cites no error of law on which an appeal could be founded .

4 The interests of justice do not require or necessitate an appeal in this case.

5 For the above reasons the Respondent 's application to appeal is refused.

CHAIRMAN

F J Silverman



DATE 20 April 2010