

608

=



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

**Case Reference** : **MAN/00CJ/LBC/2014/0027**

**Property** : **16 Bluebell Dene, Newcastle upon Tyne  
NE5 4DF**

**Applicant** : **Places For People Homes Limited by their  
Agent Residential Management Group  
Limited**

**Respondent** : **Mr Paul Henderson**

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

**Tribunal Members** : **Laurence Bennett (Tribunal Judge)  
Jonathan Holbrook (Tribunal Judge)**

**Date of determination** : **4 November 2014**

**Date of Decision** : **6 November 2014**

---

**DECISION**

---

## **Summary decision**

1. The Respondent has breached the covenant contained in Paragraph 4(ix) of the Lease relating to the Property dated 9 June 1989.

## **Application**

2. Residential Management Group Limited on behalf of Places For People Homes Limited applies for a determination under Section 168(4) of the Commonhold and Leasehold Reform Act 2002 that a breach of covenant has occurred in the lease dated 9 June 1989 relating to 16 Bluebell Dene, Newcastle upon Tyne, Tyne & Wear NE5 4DF (the Property).

## **Background**

3. The application was made on 18 August 2014.
4. Directions dated 29 August 2014 by a Judge of the Tribunal included "The Tribunal considers that this matter can be determined by way of a paper determination....." The directions gave opportunity for the parties to request a hearing. No request was made.
5. The Respondent has not responded to the application or made submissions.
6. The Tribunal convened on 4 November 2014 without the parties to determine the application.

## **The Lease**

7. The Respondent in the successor in title to the leasehold interest in the Property created by a lease made 9 June 1989 between The North British Housing Association Limited of the one part and Darren Robert Rigby of the other part (the Lease). The Applicant has succeeded to the Lessor's interest.
8. Paragraph 4(ix) of the Lease includes a covenant on behalf of the Lessee that he will: "Not at any time during the said term to underlet or sub-let the whole or any party of the Demised Premises and not to assign part only of the Demised Premises."

## **Law**

9. Section 168(1) of the Commonhold and Leasehold Reform Act 2002 (the Act) states: "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."
10. Section 168(2)(a) states: "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"

11. Section 168(4)(a) states: "A landlord under a long Lease of a dwelling may make an application to the First-Tier Tribunal for a determination that a breach of a covenant or condition in the Lease has occurred."

### **Evidence and submissions**

12. The Applicant stated in the application "We have been notified (since April 2014) by Newcastle City Council that they have a benefits application running for the Tenant at the address with the Landlord given as Mr Henderson."
13. The Applicant has produced a copy of an Assured Shorthold Tenancy Agreement in favour of Ms Leeann Cave for a period of 12 months from 21 October 2013. Copy correspondence dated 21 January 2014 from the Respondent's solicitor confirms that a previous occupier has recommenced occupation of the Property.

### **Tribunal's conclusions with reasons**

Our conclusions are:

14. We note the covenant specified by the Applicant.
15. The Respondent's solicitor's letter is clear evidence that the Respondent has sub-let the Property by way of Assured Shorthold Tenancy at the relevant period.
16. We determine that the covenant in respect of sub-letting has not been observed by the Respondent and that a breach has occurred.

### **Order**

17. The Respondent has breached the covenant contained in Paragraph 4(ix) of the Lease relating to the Property dated 9 June 1989.