



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

Case Reference : **MAN/00BP/LBC/2017/0005**

Property : **54 Manley Road
Coppice
Oldham
OL8 1AU**

Applicant : **G & O Estates Limited**

Representative : **GSL Administration Ltd**

Respondent : **Mr Numan Miah**

Representative : **N/A**

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

Tribunal Member : **Judge J Holbrook**

**Date and venue of
Hearing** : **Determined without a hearing**

Date of Decision : **2 August 2017**

DECISION

DECISION

A breach of covenant in the lease of the Property (dated 6 December 1952) has occurred by reason of the Respondent having failed to comply with a request by the Applicant to produce the buildings insurance policy for the Property or the receipt for payment of the insurance premium.

REASONS

Background

1. On 28 April 2017, an application was made to the First-tier Tribunal (Property Chamber) under section 168(4) of the Commonhold and Leasehold Reform Act 2002 for a determination that a breach of a covenant or condition has occurred in a lease of a property known as 54 Manley Road, Coppice, Oldham OL8 1AU (“the Property”).
2. The lease in question (“the Lease”) is dated 6 December 1952 and was made between Bentley Building Company Ltd (1) and Phillip Baron (2). It was granted for a term of 994 years at an annual rent of five pounds ten shillings.
3. The application was made on behalf of G & O Estates Limited, which is the current landlord under the Lease. The application was made on the basis of an alleged breach of a covenant to produce the buildings insurance policy and the receipt for the current premium upon request.
4. The Respondent to the application is Mr Numan Miah, who is the registered proprietor of the long leasehold interest in the Property and the current tenant under the Lease.
5. On 6 June 2017, the Tribunal gave directions for the conduct of the proceedings. The parties were informed that this matter was considered suitable for a determination without an oral hearing unless either party gave notice that they wished a hearing to be listed. As no such notification was received, the Tribunal proceeded to determine the matter on the basis of the evidence provided in the application and in written submissions provided by the Applicant in response to directions. The Respondent did not comply with directions and played no part in the proceedings.
6. The Tribunal did not inspect the Property.

Law

7. A prerequisite for the forfeiture of a lease (otherwise than for a breach of a covenant to pay rent) is the service of a notice under section 146(1) of the Law of Property Act 1925. However, section 168(1) of the

Commonhold and Leasehold Reform Act 2002 provides that a landlord under a long lease of a dwelling may not serve such a notice unless section 168(2) of the 2002 Act is satisfied.

8. One of the ways in which section 168(2) may be satisfied is for it to be finally determined by the Tribunal (upon an application by the landlord under section 168(4)) that a breach of a covenant or condition in the lease has occurred.

The relevant covenant in the Lease

9. Clause 2(h) of the Lease contains the following tenant's covenant:

“At his own expense to keep insured all the buildings erected or to be hereafter erected on the said plot of land hereby demised from loss or damage by fire in some reputable insurance office to be approved by the Lessors to the full value of such buildings and duly to pay all premiums and other sums payable for keeping such insurance on foot and from time to time during the said term when thereunto requested to produce to the Lessors the Policy of such insurance and also the receipt for the payment of the premium for the current year ...”.

Evidence and submissions

10. The Applicant produced copies of letters apparently sent to the Respondent on 16 March 2016, 16 September 2016 and 18 January 2017. Each letter requested production of the insurance policy and premium receipt in accordance with the Lease. The Applicant asserts that it has received no response to any of these requests.
11. The Tribunal has provided the Respondent with a copy of the application (it was sent to him at the Property, being the correspondence address provided for him by the Applicant). Subsequently, the Respondent has been sent the directions issued by the Tribunal and the Applicant's statement of case with supporting evidence. He has not made any representations in response.

Conclusion

12. The evidence before the Tribunal does not enable me to determine whether or not the Property is actually covered by buildings insurance arranged by the Respondent. However, in the absence of any representations to the contrary from the Respondent, I accept the Applicant's evidence to the effect that there has been a breach of the subsidiary elements of clause 2(h) of the Lease concerning the production to the landlord of the insurance policy and premium receipt. The Applicant is therefore entitled to a determination to that effect.