



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

**Case Reference** : **LON/00BA/LBC/2013/0095**

**Property** : **44b Whitford Gardens Mitcham  
Surrey CR4 4AA**

**Applicant** : **Mr T Craggs, Landlord**

**Representative** : **In person**

**Respondent** : **Mr S Komolafe, Tenant**

**Representative** : **Did not appear and was not  
represented**

**Type of Application** : **Breach of covenant**

**Tribunal Members** : **Mrs F J Silverman Dip Fr LLM  
Mr I Holdsworth MSc FRICS**

**Date and venue of  
Hearing** : **10 Alfred Place, London WC1E 7LR  
12 March 2014**

**Date of Decision** : **12 March 2014**

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**DECISION**

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## **Decision of the tribunal**

The tribunal determines that the Respondent Tenant is in breach of covenant in relation to Clauses 1 (c), (d), (h), (m) and (n) of his lease.

## **Reasons**

1 By an application dated 1 February 2014 the Applicant landlord sought a declaration from the Tribunal that the Respondent tenant was and remains in breach of covenant of his lease.

2 The matter was heard by a Tribunal on 12 March 2014 at which the Applicant represented himself. The Respondent did not appear and was not represented. Photographs produced by the Applicant showing letters from the Tribunal and addressed to the tenant lying on the tenant's doormat provided evidence that the tenant had been served with notice of this application (pp 83-84). No response to the application had been received from the tenant.

3 The Applicant landlord is the freeholder of the building at 44 Whitford Gardens Mitcham Surrey CR4 4AA and lives in the ground floor maisonette.

4 The Respondent is the tenant of the upper maisonette situate and known as 44b Whitford Gardens Mitcham Surrey CR4 4AA (pp42-43).

5 The lease under which the Respondent holds the property is dated 14 October 1993 for a term of 999 years from the same date and was made between the Applicant of the one part and Victoria Craggs of the other part (pages 33 and 41).

6 Clause 1 of the lease contains a number of covenants given by the tenant including:

“(c) to keep the said upper maisonette in good repair and condition and in particular so as to give shelter and protection to the said lower maisonette and to be responsible for repairing all window frames and glass therein to the upper maisonette

(d) to contribute and pay one half of the costs expenses and outgoings (hereinafter called the maintenance charge) which shall be calculated in accordance with and subject to the minimum contribution set out in clauses 3 (c) and (d) herein of the following (1) building insurance premiums, (2) lighting cleaning decoration of [the common parts] (3) maintaining repairing redecorating [the structure of the building], and (4) the decoration of the exterior of the property

(h) not to make any structural alteration or structural addition to the demised premises ..... nor remove any of the landlord's fixtures without the previous consent in writing of the lessor

(m) fully to carpet or cover the floors with other suitable floor covering adequate to restrict the penetration of sound from the said upper maisonette to the said lower maisonette with the exception of those of any kitchen bathroom water closet or cupboards

(n) not to do anything that may become a nuisance or annoyance to the occupier of the said lower maisonette”

7 The Applicant had made demands to the Respondent for the payment of service charge and insurance (pp54-56) but had received no payment from the Respondent. The Respondent is therefore in breach of clause 1(d) of his lease.

8 The Applicant provided oral written and photographic evidence of the damage caused by the Respondent to both upper and lower maisonettes by the unauthorised removal of joists supporting the floor of the upper maisonette and ceiling of the lower maisonette (p64) , the removal of the floor to the rooms in the maisonette (p65) , the creation of holes through the floor of the upper maisonette penetrating the ceiling of the lower maisonette and causing a lack of privacy to the Applicant (p67) . The Respondent had also caused damage to the flashing on the roof (p77) causing water ingress to the Applicant's bathroom and had dismantled a chimney breast (p80) without the Applicant's permission .

9 All of the items set out in paragraph 8 above constitute breaches of clauses 1 ( c ) (h), (m) and (n) of the lease as cited above and remained extant at the date of the hearing.

**Name:** Judge Frances Silverman  
as Chairman

**Date:** 12 March 2014