



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

Case Reference : **MAN/OOCCM/LBC/2016/0002**

Property : **75 Neville Court, Marlborough Park,
Washington, Tyne & Wear NE37 3DY**

Applicant : **Marlborough Park Services Limited**
Represented by : **Town & City Management Limited**

Respondent : **Mr K S Suntoke**

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

Tribunal Members : **Laurence Bennett (Tribunal Judge)
Simon Duffy (Tribunal Judge)**

Date of determination : **16 May 2016**

Date of Decision : **06 June 2016**

DECISION

Summary decision

1. The Respondent has breached a covenant in respect of repair in the lease relating to the Property.

Application

2. Marlborough Park Services 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 18 May 1990 relating to the Property 75 Neville Court, Marlborough Park, Washington Tyne & Wear NE37 3DY.

Background

3. The Applicants are the proprietors of the freehold and successors to the Lessor's interest created by a lease of the Property. The Respondent is the successor to the Lessee's interest.
4. The application was made 15 January 2016.
5. Directions made 24 February 2016 by Judge Bennett included "The Tribunal considers it appropriate for the matter to be determined by way of a paper determination....." The directions gave opportunity for the parties to request a hearing. Neither party made such request.
6. The Applicants' submissions in response to directions include copies of the Land Register, copy lease, a statement of case with submissions, correspondence addressed to the Respondent and photographs of the disrepair, the subject of the application.
7. The Respondent has not provided submissions or responded to the application.
8. The Tribunal convened on 16 May 2016 without the parties to determine the application.

The Lease

9. The Lease dated 24 February 2016 is made between The council of the Borough of Sunderland (1) Regalian Estates Limited (2) Marlborough Park Services Limited (3) Irene McGurrell (4).
10. Paragraph 3(1)m of the Lease contains the Lessee's covenant "To keep the demised premises and all walls party walls sewers drain pipes cables wires and appurtenances thereto belonging (other than the parts thereof comprised and referred to in Clause 6 hereof) in good and tenantable repair and condition"

Law

11. 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."
12. 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
13. 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

14. The Applicants' photographs show a boarded up front door panel and adjacent window panes. The Applicants statement of case summarises that the Respondent has failed to replace broken glass to the porch of the Property despite letters and emails over the period August 2014 to December 2015 when glass to the porch was replaced with wood and thereafter Perspex which is not satisfactory.

Tribunal's conclusions with reasons

Our conclusions are:

15. We note that the covenant specified by the Applicants, its terms are clear. Copy correspondence submitted confirms the position as summarised above. The photographs are consistent with the position advised. The Respondent has not challenged the application and submissions.
16. We find that the condition of the door and surrounding window is unsatisfactory and clearly in disrepair. We conclude that the Lessee has failed despite successive requests to repair the Property to the standard required by his lease covenant.

Order

17. The Respondent has breached the covenant in respect of repair contained within Paragraph 3(1)m of the Lease relating to the Property.