



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

Case Reference : **BIR/OOCT/LBC/2017/0005**

Property : **1 Olton Court, 89 St Bernards Road,
Solihull B92 7EN**

Applicants : **Mr and Mrs R Yates**

Respondent : **Olton Court Property Management Limited (1)
Mr M Walker (2)**

Representative : **PM Legal Services (1 only)**

Type of Application : **Breach of Covenant**

Members of Tribunal : **Judge D Jackson
N Thompson FRICS**

Date of decision : **13th June 2017**

Decision

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1. On 2nd May 2017 the Tribunal received an Application for an order that a breach of covenant or a condition in the lease has occurred.
2. The details given of the Applicant are:

Landlord-Olton Court Property Management Ltd (OCPM Ltd) following complaints made by Tenants Mr Richard & Mrs Elizabeth Yates of Apt. 1 Olton Court against Tenant Mr Walker of Apt. 6 Olton Court, who is cited below as Respondent to this Application.

3. The details given of the Respondent are Mr Malcolm Walker. The breaches of covenant alleged are based on a history of abusive behaviour from Mr Walker towards Mr and Mrs Yates.
4. The application was unsigned but was sent under cover of a letter dated 27th April 2017 signed by both Applicants. They explain that they consider it "unacceptable that the Landlord/Directors do not appear to be taking the matter seriously and be taking any direct action against Mr Walker for breaches of covenants within his lease".
5. The Applicants indicate that they had taken legal advice and conclude: "Consequently we are submitting the enclosed Application to the Tribunal ourselves, for the matter to be considered and dealt with by the Tribunal".
6. On 12th May 2017 PM Legal Services wrote to the Tribunal indicating that they act on behalf of Olton Court Property Management Ltd. They further indicated that Mr and Mrs Yates did not have locus or authority to make an application on behalf of their client and "as such, the tribunal are invited to strike out the application on the basis that it has not actually be brought by named applicant"
7. On 15th May 2017 the Tribunal wrote to the parties indicating that it was proposing to strike out the application under Rule 9(3) (d) on the basis that the application was an abuse of process of the Tribunal. The parties were invited to make written representations.
8. Written representations dated 16th May 2017 were received from the Applicants. The Applicants did not claim to be representing the Management Company. Their covering letter made their position clear. They have found the whole situation very difficult and stressful. They have taken legal advice from Healys LLP. Their application "was a plea for help".
9. No further representations have been made by the First Respondent.
10. On 1st June 2017 the Tribunal issued Directions that the strike out application would be determined without a hearing.

Decision

11. The application received by the Tribunal on 2nd May 2017 was unsigned and made without the express or implied authority of Olton Court Property Management Ltd named therein as Applicant.
12. The application is an abuse of process of the Tribunal and is struck out under Rule 9(3) (d) of the Tribunal Procedure Rules.

D Jackson
Judge of the First-tier Tribunal

Either party may appeal this decision to the Upper Tribunal (Lands Chamber) but must first apply to the First-tier Tribunal for permission. Any application for permission must be in writing, stating grounds relied upon, and be received by the First-tier Tribunal no later than 28 days after the Tribunal sends this written Decision to the party seeking permission.