



FIRST-TIER TRIBUNAL PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference : CHI/00HY/LBC/2017/0048

Property : The Penthouse, Flat 10 Hadleigh Court, Shady
Bower, Salisbury SP1 2RJ

Applicant : Marionette Fryer (the Landlord)

Representative : Parker Bullen Solicitors

Respondent : Mrs Karen Scott (the Tenant)

Representative : --

Type of Application: Section 168(4) Commonhold and Leasehold
Reform Act 2002 ("the 2002 Act") application for
an order that a breach of covenant or a condition in
a lease has occurred

Tribunal Members : Judge P.J. Barber
Mr P D Turner-Powell FRICS Surveyor Member
Mr M J Ayres FRICS Surveyor Member

Date and venue of 13th June 2018 Milford Hall Hotel, 206 Castle
Hearing : Street, Salisbury. SP1 3TE

Date of Decision: 25th June 2018

DECISION

Decision

(1) The Tribunal determines in accordance with the provisions of Section 168(4) of the 2002 Act, that breaches of covenant have occurred, being breaches by the tenant of the obligations imposed pursuant to the provisions in the Lease dated 24th October 1985, as referred to below:

Clause 3(i)(c)

By removing and rebuilding the parapet wall to the lower balcony, the Respondent has made structural alterations and/or removed landlord's fixtures without the previous consent in writing of the landlord.

Clause 4(i)

By removing and failing to replace the railings to the upper balcony, the Respondent has failed to keep the demised premises in good and tenantable repair and condition.

First Schedule Paragraph 1

By taking lodgers and/or allowing dogs to stay at the Flat, the Respondent has used the Flat or permitted the same to be used for a purpose other than as a private dwellinghouse for the occupation of one family only, and/or for a purpose from which a nuisance can arise to the owners lessees and occupiers of other flats in the block of which the Property forms a part.

First Schedule Paragraph 4

The Respondent has allowed a dog or dogs which may cause annoyance to any owner lessee or occupier of the other flats to be kept at the Property

Reasons

INTRODUCTION

1. The application dated 6th November 2017, is made by the Applicant, for the Tribunal to determine whether or not certain alleged breaches of covenant have occurred in respect of covenants contained in the lease dated 24th October 1985 made between Robert Francis Fryer (1) and Patricia Mabel MacPherson (2) ("the Lease"), in relation to the penthouse flat owned by the Respondent, pursuant to the Lease and being known as The Penthouse, Flat 10 Hadleigh Court, Shady Bower, Salisbury SP1 2RJ ("the Flat").
2. In broad terms, the complaint made by the Applicant as landlord, is that contrary to the provisions of the Lease, the Respondent is using the Flat not as a private dwelling for the occupation of one family, but for a dog boarding business which is allegedly causing a nuisance to other lessees of the building in which the Flat is located. Various other breaches, including in regard to payment of rent and services charges, unauthorised alterations, insurance issues, fire safety and sub-letting are also alleged.
3. Directions were issued in the matter on 24th November 2017 pursuant to the requirements of which, a bundle of evidence was submitted to the Tribunal including copies of the application, the Lease, the directions, written submissions by the parties, witness statements and various other exhibits and/or evidence.
4. A copy of the Lease was provided in the bundle to the Tribunal; the Lease contains tenant covenants of which the following are relevant extracts:-

Clause 2 The Lessee HEREBY COVENANTS with the Lessor and with the owners and lessees of the other flats comprised in the Mansion that the Lessee and the persons deriving title under him will at all times hereafter observe the restrictions set forth in the First Schedule hereto

Clause 3(i) The Lessee HEREBY COVENANTS with the Lessor as follows:-

“(a) to pay the said rents during the said term at the times and in manner aforesaid without any deduction except as aforesaid

(b)

(c) not to make any structural alterations or structural additions to the demised premises nor to erect any new buildings thereon or remove any of the Landlord`s fixtures without the previous consent in writing of the Lessor which shall not be unreasonably withheld

Clause 4 The Lessee HEREBY COVENANTS with the Lessor and with the owners and lessees of the other flats comprised in the Mansion that the Lessee will at all times hereafter:-

“(i) keep the demised premises (other than the parts thereof comprised and referred to in paragraphs (d) and (f) of clause 5 hereof) and all walls party walls sewers drains pipes cables wires and appurtenances thereto belonging in good and tenantable repair and condition damage by insured risks only excepted and in particular (but without prejudice to the generality of the foregoing) so as to support shelter and protect the parts of the building other than the demised premises.

(ii) contribute and pay one equal sixth part of the costs expenses outgoings and matters mentioned in the Fourth Schedule hereto

(iii) not to do or permit to be done any act or thing which may render void or voidable the policy or policies of insurance of the building and other parts of the Mansion hereinbefore referred to or any policy or policies in respect of the contents of any of the flats comprised in the Mansion or which may cause any increased premium to be payable in respect of any such policy

The First Schedule above referred to

1. Not to use the demised premises nor permit the same to be used for any purpose whatsoever other than as a private dwellinghouse for the occupation of one family only nor for any purpose from which a nuisance can arise to the owners lessees and occupiers of the other flats comprised in the Mansion or the neighbourhood nor for any illegal or immoral purpose

...

4. and no bird dog or other animal which may cause annoyance to any owner lessee or occupier of the other flats comprised in the Mansion shall be kept in the demised premises

4. The bundle also included an undated copy of a deed of variation, purportedly made in respect of the Lease, purporting to amend the lessor`s insuring obligations.

INSPECTION

5. The Tribunal's inspection took place in the presence of the Applicant and Sara White of the Applicant's solicitors, Parker Bullen, and Mrs Karen Scott, the Respondent.
6. Hadleigh Court is a purpose built block of 10 flats constructed in or about the 1960s and arranged over four floors, with yellow face brick elevations and a low pitch roof above the Flat. There is a low fence to the front boundary and a tarmac drive and small parking area at the front of the building, leading to a concrete drive at the side, providing access to the rear studio flat, and then at the rearmost part of the site, to a number of garages, fronting an area laid to rough gravel. The attention of the Tribunal was drawn to parapet walling surrounding the lower balcony of the Flat, the pointing of which appeared to be in poor condition. The Tribunal also noted a grassed area immediately to the rear of the main building, and signage indicating a bicycle storage area, where several bicycles were in evidence. The communal entrance hall leads to a series of open tread staircases, providing access to the Penthouse being on the top floor.
7. The Tribunal inspected inside the Flat and noted two rooms which the Respondent said, were occupied by "flat mates"; the Tribunal did not enter those rooms. The Respondent showed a number of other rooms in the Flat to the Tribunal members, including other bedrooms, the open plan living area and kitchen, and also what was described as a sun room, leading to the lower balcony serving the Flat; Mrs Scott said that if she brings dogs back, they sit with her in the sun room. The Tribunal inspected the balcony leading off the sun room which was laid with green artificial grass matting, over a membrane area. Mrs Scott said that she had removed the original parapet walling surrounding the balcony, and had re-built it with a double skin wall; she pointed out a low level drainage gully and also said that there has been an intermittent problem with water ingress to the flat below since 2008. A plastic inflatable child's pool was present on the lower balcony, together with a tortoise hutch and various other patio items. The chairman did not attempt access to the attic owing to a leg injury; however the other Tribunal members did so, and noted partitioning and beds, and a door leading to an unfenced upper balcony.

THE LAW

8. Section 168 of the Commonhold and Leasehold Reform Act 2002 (as amended by *Regulation 141 of the Tribunals and Inquiries, England and Wales Order No. 1036 of 2013*) provides that :
"168 – No Forfeiture Notice before determination of breach
(1) 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
(2) 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; or*

(c) a court in any proceedings, or an arbitral tribunal in proceedings pursuant to a post arbitration agreement, has finally determined that the breach has occurred.

(3) But a notice may not be served by virtue of subsection 2(a) or (c) until after the end of the period of 14 days beginning with the day after that on which the final determination is made

(4) A landlord under a long lease of a dwelling may make an application to the appropriate tribunal for a determination that a breach of a covenant or a condition in the lease has occurred.

(5) But a landlord may not make an application under subsection (4) in respect of a matter which-

(a) has been, or is to be, referred to arbitration pursuant to a post dispute arbitration agreement to which the tenant is a party

(b) has been the subject of determination by a court, or

(c) has been the subject of determination by an arbitral tribunal pursuant to a post dispute arbitration agreement

(6) For the purposes of subsection (4), "appropriate tribunal" means-

(a) in relation to a dwelling in England, the First-tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal; and

(b) in relation to a dwelling in Wales, a leasehold valuation tribunal"

HEARING & REPRESENTATIONS

10. The hearing was attended by the Applicant Mrs Fryer and her solicitor Mrs Sara White, accompanied by the Applicant's witnesses Mr Fryer, Mr Day, Mrs Morrow and Mr Jordan. The Respondent, Mrs Scott was supported by a friend, Mrs Jo Burton and her husband Mr Scott. Also in attendance were the case clerk, Charlotte Cooper and an observer, Mr Banfield.

11. At the outset of the hearing, Mrs Scott indicated that she wished to raise the following preliminary issues:

(a) Parker Bullen advice to the Respondent in the matter, in April 2008

(b) The Respondent's request to submit further evidence

The Tribunal invited the Respondent to make her submissions on each of these issues, and for the Applicant to respond. Mrs Scott said that Parker Bullen ought not to be allowed to represent the Applicant in view of the fact that they had also advised Mrs Scott, in regard to her lease, by a letter dating from April 2008; she said that there is a conflict of interest. Mrs White responded by saying that the 2008 letter needed to be considered in the actual context of the letter seeking the advice, adding that the objection was spurious and clutching at straws, and further that there had been correspondence in January 2018 on the subject with SPH Solicitors then acting for Mrs Scott, which had not been pursued further by her. Mrs Scott said that she has complained to the SRA and may make an indemnity insurance claim.

In regard to her request to submit late evidence, Mrs Scott referred to a copy of a written statement made by Florin McCare dated 22nd May 2018, which extended to approximately 13 lines of text. Copies were also provided to the Tribunal; Mrs White objected to the admission of such statement and referred to the decision in *Barton –v- Wright Hassall LLP [2018] UKSC 12*, copies of which she provided to Mrs Scott and the Tribunal. Mrs White referred in particular to paragraph 18 of the decision and the reference to litigants in person, not being entitled to a lower standard of compliance with rules or orders of the court, or in this case to compliance with the Tribunal`s directions and time frames.

The Tribunal considered the matters during a short adjournment, following which it advised that any concerns regarding the role of Parker Bullen should be separately pursued, there being no clear evidence of material prejudice, and given that it is for the Tribunal, not Parker Bullen to determine whether or not breaches of covenant have occurred. The Tribunal indicated that Mr McCare`s statement would be allowed, given that it is extremely brief and appears merely to qualify the position in regard to the reasons for his having previously given up his shorthold tenancy of Flat 5 Hadleigh Court.

12. At this point the Tribunal sought clarification from the parties as to the specific allegations of breach to be determined, so as to enable a proper focus only on matters of relevance. The parties agreed that the alleged breaches to be addressed are broadly as follows:-

- (a) Use other than as a private dwellinghouse by one family
- (b) Dogs being kept to the annoyance of other flat occupiers
- (c) Ground rent and service charge arrears
- (d) Structural alterations without consent
- (e) Acts which may render the insurance void or voidable
- (f) Parking in front of the garage areas.

In regard to (c) above, the Tribunal pointed out to the parties that it has no jurisdiction to deal with arrears in a Section 168(4) application, and that such complaint should properly be separately pursued by means of an application under Section 27A of the Landlord and Tenant Act 1985. The Tribunal referred to the provisions of Section 169(7) of the 2002 act. In regard to (f) above, the Tribunal invited the Applicant to advise specifically which covenant in the Lease was alleged to have been breached. The Applicant accepted that there is no covenant to which she could point. Accordingly the Tribunal then invited the parties to state their respective cases, addressing points (a), (b), (d) and (e) above.

13. Mrs White opened by saying that Mrs Scott has failed to comply with covenants, that she has removed railings from the upper roof garden, run a dog boarding business and caused her family members to use the attic space as living accommodation, when it is intended as storage. Mrs White called Mr Day to give evidence; Mr Day referred to his statement at Page 246 of the bundle, adding that he had moved into his flat on the ground floor, 8 years ago. Mr Day said that there have been many incidents involving dog excreta and that he has had enough and

now intends to move. Mr Day accepted that he is often out at work, but when he is at home, there are lots of cars coming and going bringing dogs, adding that he has been verbally assaulted when challenging the dog owners; he said that he hears dogs barking and that the dogs run up and down the stairs to and from the Flat, often urinating near his front door. Mr Day said that there is often dog mess in the parking area and that the drain near his flat is often blocked; he accepted that he leaves for work at about 6.30am and returns about 4.00pm.

14. Mrs White called Mrs Fryer to give evidence. Mrs Fryer said that the problems described in her statement dated 7th February 2018 are still on-going; she added that the dogs are still coming to the Flat and that whilst Mrs Scott was previously employed by another dog business, she has been running her own dog boarding business since 2015. Mrs Fryer said that no fire certificate has been provided by Mrs Scott for the new front door which Mrs Scott installed, and that there is no evidence of building regulations approval for the parapet wall which she had changed; she added that Mrs Scott had removed the peripheral railings from the upper balcony. Mrs Scott said that she does not deny running her dog boarding business and admitted that dogs do visit the flat on occasion; she said she thought there was tacit agreement to this by Mrs Fryer. Mrs Fryer denied any tacit agreement, adding that she has nothing against dogs, but the issue is one of running a dog boarding business from the Flat. In regard to the allegation that the insurance is made void or voidable, Mrs White said that the absence of railings from the upper balcony had been referred by Mrs Fryer to her insurance brokers, and she said she wished to refer to a letter dated 28th February 2018 from Sorvio Insurance Brokers Limited; she provided copies for the Tribunal and for Mrs Scott. Mrs Fryer said that she does not visit the property every day and she referred to the fire inspection report at Page 125 of the bundle. Mrs Fryer said it was only in August 2017 when she visited the Flat with her agent, James Jordan, that she realised that the attic is being used as habitable rooms. Mrs Fryer was asked whether the Orvis letter indicated that the insurance was void; she said they she had had trouble getting the insurance and then found Orvis to act as brokers. Mrs Scott said that she had had her new front door fitted by Zenith in July 2017 at a cost of £3,000.00-4,000.00 and that Zenith had told her it is fire resistant.
15. In regard to sub-letting, Mrs Fryer said that the two sub-tenants are not part of Mrs Scott's family and that over time, there have been several different occupiers; she added that her late husband had tried to get them removed. Mrs Scott said that she has shared the Flat with at least one lodger ever since moving in; she confirmed that her expression "*flat mate*" means "*lodger*"; she further confirmed that they are not blood relatives and that they do pay rent, adding that Mrs Fryer had always been aware. Mrs Scott said she thought she had tacit agreement limited to 2 lodgers. Mrs Fryer denied that her late husband had ever approved lodgers and referred to a page from her husband's diary at Page 173 of the bundle, in which reference is made to "*Solicitor re:- Subletting*" Mrs Fryer confirmed that she and Mr Jordan had visited the Flat on 1st August 2017 to do a fire risk assessment; Mrs Scott submitted that she felt she had been misled by Mrs Fryer as to the purpose of the visit on that occasion.
16. Following the lunch adjournment, Mrs White called Mr Jordan to give evidence and reference was made to his written statement at Page 252 onwards, in the bundle. Mr Jordan said that his business is Jordans Estate Agents, although he

accepted that his firm does not actually manage the property. Mr Jordan said that Mrs Fryer had been very concerned regarding fire safety in light of the *Grenfell Tower* disaster last year. Mr Jordan said that he and Mrs Fryer had visited, mainly in regard to the fire door issue, but that they had been shocked by the condition, regarding safety aspects of the missing railings and use of the attic space as habitable rooms, adding that he is not a fire or health & safety expert, but does have safety concerns. Mr Jordan confirmed that the stud walling in the attic is not structural, but it is permanent; he further said that the walling removed and replaced by Mrs Scott around the lower balcony, does amount to structural alteration for which landlord consent was required. Mrs Scott accepted that she had re-built the parapet wall around the lower balcony and again questioned the purpose of the visit on 1st August 2017, about which she evidently felt she had been misled. Mrs Scott said she had not been present during that inspection, but would have been, had she known the true purpose which she felt to be an invasion of her privacy.

17. Mrs White then called Mrs Morrow to give evidence; Mrs Morrow referred to her statement at Pages 248 onwards in the bundle. Mrs Morrow said she recognised the dogs shown in the photographs at Pages 232/233, adding that those dogs were boarding with Mrs Scott at the time, over the Christmas holiday period, around which time, Mrs Morrow had spent about four months working for Mrs Scott in the dog business. Mrs Morrow said that dogs visiting the Flat were never held on leads and that they used to run up and down the communal stairs, often excited and urinating in the process. Mrs Morrow said the dogs tended to set each other off, resulting in barking, and she referred to the payment she received from Mrs Scott. Mrs Morrow said that she would take up to 6 dogs on walks at a time when working for Mrs Scott.
18. Mrs White then called Mr Fryer, the Applicant`s son, to give evidence, referring to his statements at Pages 240 onwards in the bundle. Mr Fryer said that he had visited the property regularly for about 4-5 days, at or about the time of the May 2018 school half term period, to re-decorate Flat 4 which had been recently vacated by Mrs Fryer`s short term tenants. Mr Fryer said he had seen Mrs Scott each day leaving with 2 dogs; he said he observed dog changeovers and also *Facebook* pages advertising dog boarding. Mrs Fryer said that some dog owners had been argumentative with him and added that he had heard dogs barking and seen dogs on and off lead, as well as dog mess on the lawn. Mr Fryer described the gully being blocked by straw and dog excreta; he said that none of the other flat occupiers have dogs. Mrs Scott again admitted to dog boarding at the Flat from time to time.
19. Mrs Scott then presented her case; she elected to read from a printed statement as she said she was nervous; Mrs White raised some concerns. Mrs Scott handed copies of such statement to the Tribunal and to Mrs White; it contained also her intended "closing statement". Mrs Scott indicated that she does not keep a dog herself and suggested that Mrs Morrow`s allegations were made by a disgruntled ex-employee. Mrs Scott said that Mr McCare, the former tenant at Flat 5, had in his recent statement denied having left that flat owing to a dog problem. Mrs Scott admitted that she is licensed to have two dogs at the premises; she added that it is unfair for Mrs Fryer now to withdraw consents previously given. Mrs Scott said that the old railings from the upper balcony had been removed as they had become

unsafe; she also admitted removing and re-building the parapet wall to the lower balcony.

20. In regard to the attic, Mrs Scott said the estate agents details obtained when she bought the Flat, suggested possible use of the attic rooms and that she had used these rooms over the course of the last 19 years. Mrs White asked Mrs Scott to confirm the names of the various lodgers over recent years, adding that the Applicant had always objected to them, referring to the late Mr Fryer`s diary entry dated 8th January 2004 at Page 73 of the bundle. Mrs White also referred to Mrs Scott acting as Mrs Fryer`s agent for the purpose of Mrs Fryer`s letting of the separate studio at the property. Mrs White said that the assured shorthold tenancy agreement had not been properly completed and was invalid and then sought to challenge Mrs Scott regarding an issue concerning rent, at which point the Tribunal disallowed further questions on the grounds of relevance.
21. In regard to the dog boarding business, Mrs Scott said she had been an unqualified veterinary nurse for about 3 years. Mrs White asked her if she left dogs at the Flat; Mrs White said that there would usually be someone at home, such as the lodgers who, she said, work on shifts. Mrs Scott said she is insured to leave dogs in the Flat for up to 4 hours. Mrs Scott denied numerous complaints about dog noise, but accepted that Mr Day had complained on a couple of occasions; she added that she has a licence for the business from Salisbury District Council, no part of the application for which she said, required the obtaining of freeholder consent. Mrs Scott said that she did not think that she had needed building regulation approval for use of the attic as bedrooms and added that she had not made any structural alterations in that regard. The Tribunal asked Mrs White to explain how replacing the windows at the Flat required landlord consent under the Lease. Mrs White said that replacing the windows amounted to a structural alteration requiring consent. Mrs Fryer however confirmed that other window replacements have been paid for by individual flat owners and not re-charged through the service charge. Mrs Fryer accepted that she did have some discussion with Mrs Scott about the latter`s intended window replacements, but that Mrs Fryer had never actually issued consent. In regard to the fire certificate for the new front door, Mrs Scott said she had thought that Mrs Fryer and Zenith were in contact with each other about it.
22. In her closing prepared statement, Mrs Scott submitted that Mrs Fryer had known about the use of the loft, the lodgers and the dogs visiting the Flat, and also her dog boarding business, that Mrs Fryer had given tacit agreement to such, and that it would be unreasonable for such agreement to be withdrawn.
23. In closing for the Applicant, Mrs White said that the application is not about forfeiture, but breach and that the evidence supports the Applicant; she said the lodgers are not part of one family and that the dog boarding business does cause nuisance to other occupiers. Mrs White also referred to the lack of evidence to challenge the position. Mrs White added that the Applicant had not until her visit in August 2017, known about removal of the railings from the upper balcony.

CONSIDERATION

24. The Tribunal, have taken into account all the oral evidence and those case papers to which we have been specifically referred, and the submissions of the parties. The Tribunal notes that by modern standards, the Lease is not the most clearly drafted;

the Tribunal further noted that neither the bundle, nor the evidence as presented, were particularly clear. The Tribunal further took into account the fact that apart from giving her own evidence, the Respondent called no witnesses.

25. The Tribunal noted that Mrs Scott did not deny running a dog boarding business, and readily accepted that dogs visit and stay at the Flat. Similarly, Mrs Scott acknowledged that she had shared the Flat with at least one lodger since moving in many years ago, and also that the lodgers are not blood relatives, and that they pay rent. Whilst Mrs Scott said she thought that there had been tacit agreement both in regard to the dogs and the lodgers, Mrs Fryer denied any such agreement. On balance the Tribunal accepts the Applicant's evidence in this regard.
26. Whilst Mrs Scott had referred in an earlier written statement in the bundle at Page 37 onwards, to a claim of estoppel, she did not mention or elaborate upon such claim at the hearing, or suggest any clear or specific basis upon which such claim might be legally founded. Whilst Mrs Scott referred to "tacit agreement", Mrs Fryer denied such agreement and her witnesses each referred to noise and other nuisance arising as a result of the dogs. Accordingly and in all the circumstances on the basis of the evidence provided, the Tribunal considers that there have been breaches of the covenants at Paragraphs 1 and 4 of the First Schedule of the Lease, in consequence of both the lodgers and the dogs.
27. The Tribunal further notes that Mrs Scott admitted removing and rebuilding the peripheral parapet wall of the lower balcony. The habendum provisions in the Lease at Page 13 of the bundle, describe the demised premises as including "*...the roof of the said building so far as the same constitutes the roof of the Flat...*" However this would not therefore appear to include the lower balcony structure, given that it is formed on top of the flat roof of the flat immediately below, and for which it appears that the landlord is responsible under the Lease. Consequently Mrs Scott's action in arranging removal of the parapet walling to the lower balcony, is a breach of the covenant at clause 3(i)(c) of the Lease; similar comments apply in regard to Mrs Scott's claim as to tacit agreement to such work, as in the case of dogs and lodgers at paragraphs 25 and 26 above.
28. In regard to replacement of windows by Mrs Scott, the evidence was not entirely clear. Whilst the Applicant submitted that replacement of windows is a structural alteration, Mrs Scott did not agree and it was also noted that window replacements at the block are paid for individually by each lessee and not recharged via the service charge mechanism. Similarly in regard to the front door replacement, Zenith is generally considered to be a reputable installer and the issue appeared to be that Mrs Scott had omitted to obtain a fire retardant certificate from Zenith, but it was not clearly established that the insurance may have been rendered void or voidable in consequence.
29. In regard to the railings removed by Mrs Scott from the upper balcony accessed from the attic, that area appears to form part of the demised premises as defined in the Lease, as referred to in paragraph 27 above. Accordingly, removal and failure to replace the railings, is a breach of the covenant at clause 4(i) of the Lease. The Sorvio Insurance Broker's letter refers to exclusion of liability for injury, loss or damage, whilst the railings are removed, but does not in itself provide clear evidence as to the policy being void or voidable in consequence; seemingly the insurance otherwise remained valid.

30. In regard to the attic space, the evidence was unclear as to precisely what work had been done by whom and when, and/or as to whether the current use may render the insurance void or voidable. However the Tribunal makes no endorsement as to the fire safety and other health and safety elements of the current attic arrangement and the Respondent should as a matter of considerable urgency check the position and take all necessary remedial action as a matter of high priority to ensure and protect the safety of all the occupants of the building.

31. We made our decisions accordingly.

Judge P J Barber (Chairman)

A member of the Tribunal
appointed by the Lord Chancellor

Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application to the First-tier Tribunal at the Regional office which has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision.

3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.

4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.