

429



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Residential  
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**LONDON RENT ASSESSMENT PANEL**

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON AN APPLICATION  
UNDER SECTION 168(4) OF THE COMMONHOLD AND LEASEHOLD REFORM  
ACT 2002**

Case Reference: **LON/00AH/LBC/2012/0045**

Premises: **73 Bellfield, Pixton Way, CR0 9JX**

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Applicant: **Cyril Freedman Limited**

Respondent: **Mr Kevin Andrew Alderton**

Leasehold Valuation Tribunal: **Mr M Martynski (Solicitor)**

Date of decision: **28 May 2012**

## Decision summary

1. The Tribunal determines that the Respondent has breached clause 6 (viii) (a) & (b) of his lease as from at least 29 June 2011 to date in that he has failed to insure 73 Bellfield, Pixton Way, CR0 9JX ('the subject premises') in accordance with those lease clauses.

## Background

2. The Respondent is the long leaseholder of the subject premises which consist of a maisonette which itself is part of a larger block.
3. The Respondent's lease obliges him to insure the subject premises and to effect such insurance through such agency as the Landlord may require [clause 6 (viii) (a) & (b)].
4. The Tribunal gave directions for the preparation of the application dated 4 April 2012. The directions provided that the application would be decided on the papers alone without a hearing. Neither party requested a hearing.
5. The Applicant, in accordance with the directions, sent in a bundle of documents for the decision. The Respondent, apart from contacting the Tribunal by telephone and email in April 2012 (in response to the application), has not taken any part in these proceedings to date.
6. This application has been decided on consideration of the following documents:
  - the application form
  - the directions referred to above
  - the Respondent's lease
  - office copy entries of the parties' titles to the subject property
  - copy letters from the Applicant to the Respondent dated 29.6.11, 7.11.11, 29.3.12 & 30.4.12.

## The evidence

7. The letter from the Applicant to the Respondent dated 29 June 2011 asked him to note clauses 6(viii) (a) & (b) of the lease and to contact its brokers, Lorica Insurance Brokers.
8. The letter dated 7 November 2011 referred to the earlier letter and stated;

We are advised by Lorica Insurance Brokers that you have failed to respond to your (sic) letter of 29 June 2011. Thus currently you are in breach of lease

....


We will await a further ten days only. If at the end of that time you have failed for whatever reason to make the appropriate arrangements to pay this:.....[we] Will make an application to the Residential Property Tribunal Service....

9. There are then letters giving the Respondent notice that the matter has been referred to this Tribunal and acknowledging a message left by the him. All the letters are from the Applicant company and signed by Mr David Glass, the Company Secretary.

**Decision**

10. The Tribunal is satisfied from the documents that it has seen that the Respondent has breached clause 6 (viii) (a) & (b) of his lease as from at least 29 June 2011 to date in that he has failed to insure the subject premises in accordance with those lease clauses

Chairman:



Mark Martynski

Date:

28 May 2012

## Appendix of relevant legislation

### **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-dispute 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 a leasehold valuation tribunal for a determination that a breach of a covenant or 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.