



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

Case Reference : **MAN/36UC/LBC/2018/0005**

Properties : **Flat 1, 89 Northallerton Road, Brompton
Northallerton DL6 2QA**

Applicant : **Alan Frederick Harrison**

Respondent : **Christopher Martin Parkinson**

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

Tribunal Members : **Laurence Bennett (Deputy Regional Judge)
Niall Walsh (Deputy Regional Valuer)**

Date of determination : **21 June 2018**

Date of Decision : **2 July 2018**

DECISION

Summary decision

1. The Respondent has breached covenants in the lease relating to inspection and repair as set out below.

Application

2. Mr Alan Harrison applies for a determination under Section 168(4) of the Commonhold and Leasehold Reform Act 2002 that Mr Christopher Parkinson has breached Lessee's covenants within the lease of the Property Flat 1, 89 Northallerton Road, Brompton, Northallerton DL6 2QA (the Property).

Background

3. The Applicant is the proprietor of the freehold and the Respondent is the successor Leaseholder of the Property under a lease made 19 September 1988.
4. The application was made on 30 March 2018.
5. Directions were made 5 April 2018 by Judge J Holbrook. They 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 a request.
6. The Applicant's submissions in response to directions include copies of the Leasehold Land Register, copy relevant lease, a statement of case with submissions and copy correspondence to the Respondent.
7. The Respondent has not engaged with the Tribunal process or complied with directions save for a telephone indication that he does not intend to make submissions.
8. The Tribunal convened on 21 June 2018 without the parties to determine the application.

The Lease

9. The Lease dated 19 September 1988 is made between Alan Frederick Harrison (1) Christine Grimston (2) (the Lease).
10. The Lease contains Lessee's covenants:
 - 2(4) to inspect and report wants of repair to the Landlord in writing
 - 3(1) to keep in good repair
 - 3(2)(a) to permit the Landlord and any Tenant of another part of the estate to enter and inspect on reasonable notice
 - 3(2)(b) to permit the Landlord and any Tenant of another part of the estate to enter upon reasonable notice to carry out necessary repairsSchedule 3 contains exceptions and reservations to the grant reflecting the covenants above

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 Applicant's evidence and submissions are detailed above.

Tribunal's conclusions with reasons

Our conclusions are:

15. We have noted copy correspondence which illustrates lack of repair including water escaping the Property and the efforts made to obtain access to inspect and rectify the underlying problem.
16. We find a letter sent by the Applicant to the Respondent dated 20 March 2018 particularly telling. This sets out that no response has been received to correspondence and texts and that "Your continued refusal to communicate or adhere to the terms of the lease in allowing immediate access to interested parties in the event of emergency or reasonable notice in respect of repairs/inspection is clearly not acceptable and will no longer be permitted."
17. The Applicant's statement notes issues in respect of maintenance of windows which has become a security issue and subsequent to the notice of these proceedings acknowledgement by the Respondent that he would not contest the action but could not afford window replacement. There is no indication that access has been provided or work carried out to the windows or in respect of the escape of water.
18. Following 17 we determine that the Respondent has failed to comply with his covenants identified above as claimed by the Applicant.

Order

19. The Respondent has breached his covenants identified at paragraph 10 of the decision in respect of the Property.

L J Bennett
Tribunal Judge
2 July 2018