



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

**Case reference** : **LON/00AE/LBC/2020/0047  
V:CVPREMOTE**

**Property** : **Flat 169 Ashford Court Ashford  
Road London NW2 6BS**

**Applicant** : **Hafton Properties Limited**

**Representative** : **Dale and Dale solicitors**

**Respondent** : **Ms Meiha Ng**

**Representative** : **None**

**Type of application** : **Determination of an alleged breach  
of covenant s168(4) Commonhold  
and Leasehold Reform Act 2002**

**Tribunal member(s)** : **Evelyn Flint FRICS  
Ms S Coughlin MCIEH**

**Venue** : **Remote video hearing**

**Date of hearing** : **20 January 2021**

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**DECISION**

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1. The application is dismissed because during the hearing the Respondent admitted installing a partition in the living room of the flat.

## **Background**

1. The hearing was conducted remotely using the CVP platform on the morning of 20 January 2021. There was no objection to the use of this format by the parties. The Respondent joined by telephone as she did not have access to a video link. The form of remote hearing was CVPREMOTE. A face to face hearing was not held because of the difficulties of arranging a Covid safe hearing at Alfred Place, so it was not practicable, no-one required a face to face hearing, and the application was ideal to be considered in a remote hearing. The documents to which we refer are contained in a bundle consisting of 102 pages supplied by the Applicant's solicitors Dale and Dale electronically.
2. The Applicant landlord seeks a determination, under subsection 168(4) of the Commonhold and Leasehold Reform Act 2002 ("the Act"), that the Respondent tenant is in breach of the covenants contained in clauses 4 and 5.12 of the lease dated 20 June 2014 and clause 2(3) of the lease dated 10 January 1989. The Applicant stated in the application that the Respondent had altered the layout of the flat and in so doing had damaged the walls, ceilings and floors of the flat by installing a partition in the living room of the flat to make it a 4 bedroom flat but with no living room.
3. Under the leases the lessee covenanted "*not to injure cut or maim any of the walls, ceilings, floors or partitions of the said flat and not to make any structural alterations or structural additions to the said flat or internal arrangements thereof or remove any of the landlord's fixtures without the previous consent in writing of the Lessor such consent not to unreasonably withheld.*"

## **The hearing**

4. Mr Comport of Dale and Dale referred to the Respondent's obligations under the leases and called Mr S Unsdorfer to give evidence supported by photographs of part of the flat to substantiate the allegation that a partition had been installed in the flat. Mr Unsdorfer confirmed that he had not inspected the flat himself and that the porter had taken the photographs.
5. Ms Ng confirmed that she had installed a partition in the living room to help her look after her daughter who has been diagnosed with a serious illness so that they were able to have adjoining bedrooms. The original main bedroom was being used as a living

room. She had not realised that she was in breach of her lease; the partition could easily be removed and she would give an undertaking to remove it if she were to sell the flat in the future.

6. Mr Comport asked that the Tribunal record the admission by the Respondent during the hearing regarding the partition. He said that his client would request that Ms Ng remove the partition. If Ms Ng wanted to seek retrospective consent to the installation, she would need to provide a full explanation of why consent should be given before her request could be considered.

Evelyn Flint

21 January 2021

### **Rights of appeal**

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).