



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

Case Reference : **LON/00BE/LBC/2023/0009**

Property : **Flat 40, Bentley House, Peckham Road,
London SE5 7NB**

Applicant : **London Borough of Southwark**

Respondent : **Meredith Lloyd**

**Type of
Application** : **Breach of covenant**

Tribunal Members : **Judge Nicol
Mr SF Mason BSc FRICS**

**Date and venue of
Hearing** : **5th June 2023
10 Alfred Place, London WC1E 7LR**

Date of Decision : **6th June 2023**

DECISION

The Tribunal has determined that the Respondent has breached clause 3(5) and (10) of his lease as detailed below.

The Tribunal's reasons

1. The Applicant is the Respondent's landlord at Flat 40, Bentley House, Peckham Road, London SE5 7NB. The Applicant seeks a determination under section 168(4) of the Commonhold and Leasehold Reform Act 2002 that the Respondent has breached his lease due to numerous acts of anti-social behaviour.
2. Further to the Tribunal's directions issued on 6th March 2023, the Tribunal heard the application at a face-to-face hearing on 5th June 2023. The attendees were:
 - Mr Stephen Evans, counsel for the Applicant

- Mr Peter Cremin, solicitor for the Applicant
 - The Applicant's witnesses:
 - Mr Morrison Jehwo, neighbour
 - Ms Jodie Watkins, neighbour
 - PC Jodie Smythe
 - PS Chris Isliffe
 - Mrs Lynda Lloyd, the Respondent's mother
3. The Applicant had prepared a 158-page bundle of relevant documents. Mr Evans also provided a skeleton argument and a chronology.
 4. The Respondent has not participated in these proceedings, despite their having received due notice. Mrs Lloyd had not been given any specific authority to act on their behalf but attended to ask for an adjournment. (She also indicated that the Respondent wishes to use the pronouns "they/them".) She provided a copy of a brief psychiatric assessment from July 2022 and excerpts from guidance in relation to the Mental Capacity Act 2005.
 5. Mrs Lloyd asserted that her son suffers from fluctuating capacity. She pointed to the psychiatric assessment and their irrational behaviour, both in the nature of the allegations against them and in their response to legal proceedings. They did not attend the county court on 22nd July 2022 when an injunction was made against them. They arrived at court on 13th March 2023 after the court had already decided to extend the Closure Order originally made on 2nd December 2022. They literally ran away from the court before the hearing of their appeal against the extension of the Closure Order on 4th May 2023. He is currently street homeless.
 6. No-one disputes that the Respondent is suffering from mental health issues, compounded by drug use – the Applicant referred to a personality disorder and Mrs Lloyd referred to possible OCD. However, Mr Evans pointed out that the Mental Capacity Act requires the Tribunal to assume that the Respondent has capacity and that more recent evidence, namely that of Ms Ursula Ruddy in a witness statement made for the Closure Order proceedings on 16th November 2022, suggested there was no reason to suspect that the Respondent does not have capacity. On that basis, the Tribunal cannot be satisfied that the Respondent lacks capacity.
 7. However, Mrs Lloyd asserted that a psychiatric assessment was being compiled. The Respondent had been interviewed twice online. The resulting report has been delayed because medical records have not been provided. Mrs Lloyd suggested that the adjournment would allow the Tribunal to take into account this report.
 8. While it might be ideal to take into account further medical evidence, the Tribunal is not satisfied that it would help determine whether the Respondent lacks capacity in relation to the current proceedings. It is being compiled for use in other proceedings. The Tribunal is seised of the

relatively limited question of whether the Respondent committed the acts of which they are accused. It is not proportionate to adjourn these proceedings, particularly given the number of people involved on the Applicant's side, for something of, at best, indeterminate value.

9. Therefore, the Tribunal refused Mrs Lloyd's request for an adjournment and proceeded to hear the case.
10. Mr Evans limited the facts on which he relied to those already set out in the written evidence which included witness statements from all the witnesses who had attended the hearing. Given her lack of authority, Mrs Lloyd had no standing to conduct cross-examination. The Tribunal members also had no questions for the witnesses. Therefore, none of the witnesses gave live evidence.
11. The Applicant has alleged that the Respondent has breached the following clauses of their lease:-
 - 3 **THE** Lessee hereby covenants with the Council and with and for the benefit of the Lessees (whether under short or long leases and granted before or after this lease) and owners of other flats in the building or on the estate on behalf of the Lessee and those deriving title under him
 - (5) Not to do or permit or suffer to be done any act or thing which may be or become a nuisance or annoyance to the Council or to the Lessees owners or occupiers of adjoining or neighbouring property
 - (10) Not to obstruct any common parts of the building or of the estate
12. It is important to note that the Tribunal's role under the Act is to determine simply whether there has been a breach of covenant on the evidence before it. Whether there are extenuating circumstances which would allow relief from forfeiture or whether the landlord has an alternative remedy is irrelevant at this stage.
13. It is alleged that, between February and December 2022, the Respondent:
 - (a) Destroyed plants and landscaping on the Estate;
 - (b) Placed the debris around the Estate which blocked the public pathway;
 - (c) Smashed glass on or in the public pathway;
 - (d) Placed broken glass on the low wall bounding the public pathway;
 - (e) Paraded up and down the public pathway waving a stick, shouting and screaming;
 - (f) Banged bin doors, shouted and swore at unsocial hours;
 - (g) Displayed aggressive behaviour;

- (h) Placed items outside the property along the wall and constantly moving them;
 - (i) Gestured with his middle finger towards the flat of Mr Jehwo;
 - (j) Spoke to Ms Watkins's partner Bruce, in breach of a restraining order;
 - (k) Walked around topless, barefoot, shouting and swearing;
 - (l) Constantly verbally abused neighbours, swearing at them;
 - (m) Threw rubbish;
 - (n) Tipped the metal rubbish bins over and strew the contents about;
 - (o) Banged and left the bin chute doors open;
 - (p) Amassed rubbish outside the property including faeces, glass, duvets, furniture, traffic cones, bollards and old prams;
 - (q) Amassed rubbish so as to create an obstruction to vehicles;
 - (r) Lit and/or attempted to light rubbish on several occasions;
 - (s) Climbed in the back of Council refuse trucks;
 - (t) Physically assaulted council refuse workers on at least 8 occasions;
 - (u) Lay on a bed completely naked next to Mr Jehwo's front gate;
 - (v) Took items from his porch area and threw them around the Estate;
 - (w) Put items on residents' cars.
14. The Applicant's primary witnesses are two of the Respondent's neighbours, Ms Watkins and Mr Jehwo. They had direct and frequent contact with the Respondent. Both noted a significant change in the Respondent's behaviour in around March 2022. Before that date he acted consistently with his background as an Oxford graduate who bought the property in 2013 and had no obvious problems. Since that time he has become confrontational and aggressive, both to his neighbours and Council employees. He appears to be obsessed with compiling and spreading rubbish, deliberately in order to obstruct and disrupt others. Photos were included in the hearing bundle which showed various items of rubbish both strewn about and apparently carefully placed or aligned so as to cause maximum obstruction.
15. The accounts of Ms Watkins and Mr Jehwo are not supported by diaries or anything else which can produce a clear list of the dates of any of the events complained of or their frequency. However, they are supported by police records which show a large number of complaints of the same behaviour during the relevant period. Both witnesses have stated that the Respondent's behaviour has adversely affected their mental health and their ability to enjoy their homes, both on their own account and with their respective families.
16. The Tribunal is satisfied that the allegations listed in paragraph 13 above are true. There can be no doubt that they constitute breaches of the above-quoted clauses of the Respondent's lease. The Respondent's

behaviour clearly causes a nuisance to his neighbours and obstructs the common parts of the estate.

Name: Judge Nicol

Date: 6th June 2023