



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

Case reference : **LON/00AT/LBC/2024/0009**

**HMCTS code
(paper, video,
audio)** : **Paper hearing**

Property : **4 Lismore Close (& No.8 Garage),
Isleworth, TW7 6QX**

Applicant : **G.B.R. Finance Limited**

Representative : **Howard Kennedy LLP (ref
HW5/081954.1)**

Respondent : **CGR Invest Limited**

Representative : **Ashtons Legal LLP (Kirsteen Durrant)**

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

Tribunal : **Judge H. Carr**

Date of decision : **31st May 2024**

DECISION

Covid-19 pandemic: description of hearing

This has been a paper hearing. The documents that the Tribunal was referred to were contained in an agreed bundle comprising 321 pages.

The order made is described below.

Decisions of the Tribunal

- (1) The Tribunal determines that there has been a breach of clause 3 (9) and (10) of the lease pursuant to S. 168(4) of the Commonhold and Leasehold Reform Act 2002.
- (2) The reasons for the decision are set out below.

The background to the application

1. The Applicant seeks an order that a breach of covenant or a condition in the lease has occurred pursuant to Section 168(4) of the Commonhold and Leasehold Reform Act 2002. The application concerns alleged breaches at **4 Lismore Close, Isleworth TW7 6QX and Garage No 8** (“the property”).
2. The matter was originally listed for a face to face hearing. With the consent of the parties and in the light of the admission of the breaches by the Respondent the matter was converted to a paper hearing.
3. Section 168 of the Commonhold and Leasehold Reform Act 2002 provides as follows with sub-section (4) shown in bold:

(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.*

4. The Applicant, is the registered proprietor of the freehold of premises known as Land and Buildings at Lismore Close Isleworth, which comprises five buildings containing 20 individual maisonette flats in total as well as common and retained areas. The freehold title includes the subject property,
5. The Respondent is the registered proprietor of the leasehold property at 4 Lismore Close, Isleworth and Garage No 8. The Respondent purchased the property at auction in March 2022.
6. The property which is the subject of this application is a first-floor maisonette.

The issue

7. The only issue for the Tribunal to decide is whether a breach of covenant or a condition in the lease has occurred pursuant to S. 168(4) of the Commonhold and Leasehold Reform Act 2002.
8. The primary allegation of breach relates to Clause 3 (9) and (10) of the lease which provide that the lessee is obliged -:

(9) Not to make any alterations in the upper maisonette without the approval in writing of the Landlord to the plans and specifications thereof and to make all such alterations in accordance with such plans and specifications. The tenant shall at his own expense in all respects obtain all licences approval of plans permissions and other things necessary for the carrying out of such alterations and comply with the bye-laws and regulations and other matter prescribed by any component authority either generally or in respect of the specific works involved in such alterations.

(10) Not to do or permit or suffer to be done in or upon the upper maisonette anything which may be or become a nuisance annoyance of cause damage or

inconvenience to the Landlords or the Occupier of the lower maisonette or neighbouring owners and occupiers or where by any insurance for the time being effected on the upper and lower maisonette or either of them may be rendered void or voidable or whereby the rate of the premium may be increased

Allegations of Breaches

9. Between March 2022 and June 2023 the Respondent undertook substantial alterations to the property without the consent of the Applicant, converting the property from a 2 bedroom, 1 bathroom layout to a six bedroom 5 bathroom layout.
10. As a result of the unauthorised works the Respondent has caused or may cause a nuisance annoyance or damage or inconvenience to the Applicant and the neighbouring owners or occupiers of the Subject Property.
11. The Applicant has received complaints and concerns from neighbouring owners and/or occupiers.
12. The buildings insurance policy, placed by the Applicant, has been invalidated as a result of the unauthorised alterations and current use of the Subject Property. The new policy now in place is substantially more expensive.

The Respondent's position

13. The Respondent admits to breaches of clause 3(9) and 3(10) of the lease.
14. These admissions are contained in the statement of case prepared on behalf of the respondent provided in the hearing bundle.

The Tribunal's decision

15. The Tribunal determines that the Respondent has breached clause 3(9) and 3(10) of the lease to the property

Reasons for the Tribunal's decision

16. The Respondent has admitted the breaches of clauses 3(9) and 3(10) of the lease.
17. The proper venue for the determination of costs relating to this application is the County Court.

Name: Judge H Carr

Date: 31st May 2024

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).