



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

Case reference : **LON/00BJ/LBC/2024/0038**

Property : **22d Thorney Crescent, Morgans Walk,
Battersea, London SW11 3TT**

Applicant : **Danesdale Land Ltd**

Representative : **Sampson Coward LLP**

Respondent : **Tareq Hassan Hadeed**

Representative : **n/a**

Type of application : **Determination of an alleged breach of
covenant**

Tribunal : **Tribunal Judge N O'Brien**

Date of Decision : **6 November 2024**

DECISION

Decisions of the Tribunal

(1) The Respondent has breached Clause 5(iii) and Paragraph 1 of Schedule 1 of his lease as detailed below in paragraphs 13 and 21.

The Application

1. The Applicant is the freehold owner of 22 Thorney Crescent SW11 3TT (the building). The building consists of 4 stories and contains 4 duplex flats. The Respondent is the leasehold owner of 22d Thorney Crescent

which is situated on the second and third floor of the building. By an application dated 2 July 2024 the Applicant seeks a determination under section 168(4) of the Commonhold and Leasehold Reform Act 2002 (CLRA 2002) that the Respondent has breached his lease. In summary the Applicant asserts that the Respondent has breached the covenants in his lease requiring him to keep the demised premises in repair and to refrain from causing annoyance to his neighbours. It is the Applicant's case that the Respondent has breached these covenants by failing to attend to a leak emanating from the roof space above his flat, which forms part of the demise. It is also asserts that the Respondent has engaged in a prolonged course of anti-social behaviour which has seriously affected his neighbours.

2. The Applicant issued a parallel application pursuant to s27A of the Landlord and Tenant Act 1985 against the same Respondent relation to alleged arrears of service charges (LON/00BJ/LSC/2024/2089). By an application dated 29 August 2024 the Applicant applied to withdraw those proceedings on the grounds that the Respondent had paid all outstanding service charges in full. The Tribunal consented to the withdrawal on 9 September 2024.

The Proceedings

3. The Tribunal issued directions in respect of both matters on 2 August 2024, amended on 9 September 2024. Pursuant to the amended directions the Tribunal directed that this application would be the subject of a paper determination in the week commencing 4 November 2024 unless one or both of the parties wrote to the Tribunal requesting a hearing by 21 October 2024. No such request was received from either party.
4. Pursuant to the directions the Applicant has sent its statement of case to the Tribunal and the Respondent, and copies of the witness statements and documents it intends to rely on, and filed a bundle. The Respondent has not served or filed any evidence or statement of case in response to the application or engaged in any way with these proceedings.
5. The Tribunal had the following documents:
 - a) A 155-page bundle of relevant documents, prepared by the Applicant. The bundle includes the following;
 - 2 signed witness statements from a Mr Michael Stark dated 28 August 2024 and 2 October 2024 respectively;
 - A signed statement from a Ms Susan Banbury dated 29 August 2024;
 - A signed statement from a Mr Alex Taylor dated 12 September 2024;
 - A copy of the application and the lease;
 - The grounds for the application.

b) The Applicant's skeleton argument;

The Lease

6. Flat 22d was demised to the Respondent's predecessor in title pursuant to a lease dated 21 January 1995 between (1) the Applicant as lessor, (2) Mr Hassan Jabbar Hadded as lessee and (3) Morgan Walk Management Ltd for a 215-year term commencing on 24 June 1983. The Respondent inherited the leasehold interest in or about 9 March 2010.
7. By clause 5(iii) of the lease the lessee covenanted;

“to keep the premises and everything attached thereto and used solely in connection therewithin in good and substantial repair and condition”
8. Part 1 of Schedule 3 to the lease defines the demised premises. The definition of the demised premises includes;

(i) the roof space thereover
(iii) the window frames
(vii) all pipes wires ducts and drains solely serving the flat”
9. By Paragraph 1 of Schedule 1 to the lease the lessor covenanted that;

“ Nothing shall be done or suffered to be done on the premises which shall be or grow to be an annoyance to the lessor or the owner or occupier of any adjoining or neighbouring hereditaments”
10. It is important to note that the Tribunal's role under the CLRA 2002 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.
11. The Tribunal is satisfied that the Respondent has committed multiple breaches of his lease.

Breach of Repairing Obligations

12. The Applicant asserts that the Respondent has failed to attend to a leak emanating from the loft above his flat which forms part of the demise. It is not clear when the leak started however according to Mr Stark there is water emanating from the Respondent's flat which pours down the outside of the building. He suspects that the cause may be a faulty ballcock in a water tank in the loft. He exhibits a photograph taken in May 2024, of the

exterior of the building showing significant water damage to a window frame of the Respondent's flat. He also exhibits a letter sent by the Applicants' legal representatives dated 24 May 2024 requiring the Respondent to address the leak and subsequent damage to the window frame. As at the date of his first statement the cause of the leak had not been addressed. In his second statement he confirms that the leak stopped on or about 4 October 2024.

13. The Applicant has not been able to inspect the demised premises to establish the definitive cause of the water emanating from the Respondent's flat. However in the absence of any evidence from the Respondent, and on the basis of the evidence of Mr Stark, the Tribunal is satisfied that the Respondent has breached clause 5(iii) of his lease by failing to keep in repair both the window frame and the pipes or ducts serving the flat. It appears that the Respondent has attended to the leak from the loft area, however there is no evidence that the damage to the window frame has been attended to as at the date of this determination.

Breach of Covenant- Causing Annoyance

14. In its Grounds for the Application the Applicant asserts that since 2017 the Respondent has engaged in anti-social behaviour which has caused a great deal of distress to other occupants of the building. The behaviour complained of includes loud banging from within the flat and verbal abuse targeted at other residents. It asserts that the Respondent's anti-social behaviour, and in particular the banging, has occurred daily since September 2022.
15. All three witnesses upon whose evidence the Applicant relies reside in one of the three other flats in the building.
16. Mr Stark is the leasehold owner of 22a. His flat is not immediately adjacent to the Respondent's flat. He says that he hears banging emanating from 22d but he is not as affected by it as the other occupants of the building. He also says that he has observed the Respondent making offensive comments in the common areas.
17. Ms Banbury is the leasehold owner of 22C which is the flat immediately adjacent to 22d. In her statement she says that she regularly hears banging and thumping emanating from the Respondent's flat. It appears to be deliberate as it often starts when she returns to her flat and closes her front door. She says that the banging is so severe it causes the pictures on the wall to move and the glass cabinet in her kitchen to vibrate. She says that the banging has been incessant since March/April 2023 and happens during the day and night. She considers that it is deliberate and targeted. She also asserts that the Respondent has behaved in an aggressive manner towards her. In particular she describes one occasion on 3 September 2023 when the Respondent stood at his front door and shouted foul abuse

at her through her front door. Ms Banbury reported that incident to the police.

18. Ms Banbury has attached a series of WhatsApp messages from 2 September 2023 to 16 June 2024 passing between the occupants of the building recording the incidents of banging and anti-social behaviour they have experienced.
19. Mr Taylor is the assured shorthold tenant of 22b, which is the ground and first floor flat immediately below the subject premises. He lives there with his wife and their 5 year old son. He has lived in 22b since 2012. His evidence is that since September 2022 there have been regular occurrences of loud banging coming from the Respondent's flat. They occur every day, often on multiple occasions. They also occur at night and Mr Taylor says that he has lost count of the number of times he and his family have been woken up by loud banging coming from the Respondent's flat. His evidence is that the banging seems to be provoked in particular by noises made by his 5-year old son and by anyone opening or closing the front door of his flat. However sometimes the banging can occur late at night for no reason. He also states at paragraph 17 that the Respondent frequently bangs his own front door in an aggressive manner. He states that both his wife and son are very upset by the Respondent's behaviour, to the point that his son is reluctant to sleep on his own and has become scared that the Respondent will hurt him.
20. In his statement Mr Taylor states that the Respondent has been deliberately abusive to him and to his wife on a number of occasions. Mr Taylor describes one particular incident which occurred on 22 September 2022 when the Respondent approached Mr Taylor's wife in a local shop and started muttering at her using foul and abusive language. The Respondent was not inside his flat when these incidents occurred.
21. The Tribunal is satisfied that the Respondent has breached paragraph 1 of Schedule 1 of his lease by deliberately banging on the walls and floor of his flat on a daily basis since September 2022 until 12 September 2024 being the date of Mr Taylor's statement. The Tribunal is also satisfied that the incident described by Ms Banbury on 3 September 2023 when the Respondent shouted foul abuse at Ms Banbury from inside his flat amount to a breach by the Respondent of Paragraph 1 of Schedule 1 of the Respondent's lease. At the very least his behaviour has caused annoyance to the occupiers of the other flats in the building.

Further Determinations

22. The Tribunal accepts the evidence of Mr Stark, Ms Banbury and Mr Taylor regarding the Respondent's abusive behaviour towards other residents both in the common parts and in the car park and in the locality of the building. However the Tribunal is not satisfied that those can amount to a breach by the Respondent of Paragraph 1 of Schedule 1 of his lease because this paragraph only applies to acts which occur '*on the premises*', meaning inside the flat.

Name: Judge Niamh O'Brien

Date: 6 November 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).