



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

Case Reference	: HAV/45UE/LBC/2025/0605
Property	: 23 Highdown Court, Forestfield, Furnace Green, Crawley, RH10 6PR
Applicant	: Forestfield Management Company Limited
Representative	: Stevensdrake Solicitors
Respondent	: Robert David Govett
Representative	: N/A
Type of Application	: Determination of alleged breach of covenant (s168 Commonhold and Leasehold Reform Act 2002)
Tribunal Members	: Judge R Cooper Ms C Barton MRICS Ms T Wong
Hearing	: 15 July 2025 Havant Justice Centre (CVP)
Date of decision	: 30 July 2025

DECISION

Summary decision

- 1. The Tribunal determines that for the purposes of section 168(4) of the Commonhold and Leasehold Reform Act 2002, the following breaches have occurred (full particulars of which are set out below):**
 - (i) Failure to keep the demised property in good and substantial repair (breach of Clause 2(6)),**

- (ii) **Failure to paint external wood and iron work (breach of Clause 2(7)),**
 - (iii) **Failure to permit the Lessor and their surveyors, agents or workmen to enter and examine the demised premises (breach of Clause 2(9)), and**
 - (iv) **Failure to produce a policy of insurance (breach of Clause 2(10)).**
- 2. The Respondent shall pay to the Applicant within 28 days of this Decision the tribunal fees paid by the Applicant in the sum of £330.**

Background to the Application

1. Forestfield Management Company Limited ('the Applicant') is the freehold owner of Forestfield, being the land and buildings on the south side of Maidenbower Drive, Crawley ('Forestfield')
2. Robert David Govett ('the Respondent') is the leasehold owner of 23 Highdown Court, Forestfield, Furnace Green, Crawley, RH10 6PR ('the Property').
3. On 14 February 2025, the Tribunal received an application from the Applicant seeking a determination under s168(4) of the Commonhold and Leasehold Reform Act 2002 ('the 2002 Act') that the Respondent has breached the terms of his lease.
4. Directions were issued to the parties on 8 May 2025. The Applicant has complied with the directions, but the Respondent failed to provide a response or any documents.
5. No inspection of the Property took place. Neither party requested it, and it was not considered necessary for a fair decision to be made by the Tribunal.

The issues for the Tribunal

6. The Applicant seeks a determination under section 168(4) of the Commonhold and Leasehold Reform Act 2002 ("the 2002 Act") that the Respondent is in breach of the covenants in his lease.
7. A determination by the Tribunal under section 168(4) of the 2002 Act is one of the requirements before a notice under section 146 of the Law of Property Act 1925 ('a section 146 notice') can be served. A section 146 notice is the first step in the process of forfeiting the Respondent's lease (s168(1)). As such, a finding of the Tribunal that a breach has occurred is a matter of some significance.

8. In summary, the Applicant alleges the Respondent is in breach of the terms of his lease by:
- (a) Failing to paint internal wood and iron work every 7 years,
 - (b) Failing to paint external wood and iron work every 4 years,
 - (c) Allowing the Property to fall into a considerable state of disrepair, with the following defects in particular:
 - Rotten window frames to the front of the Property,
 - Rotten and unpainted timber cladding to the front on the Property,
 - Broken glass to the front door, allowing the property to be insecure,
 - Rotten front door frame,
 - Metal work to the front exterior is in poor condition,
 - Damaged and mouldy internal door frames, and removal of all internal doors,
 - Damaged tiles and plasterwork in the main hallway,
 - Substantial water ingress to the roof which has *inter alia* allowed the ceiling of the front room to rot and fall in and caused damage to the plaster and exposure of brickwork with substantial mould growth,
 - Rusty radiators throughout,
 - Loose debris, detritus and rubbish inside the property and in the front of the property,
 - Overgrown front garden, and
 - Re-pointing required to brickwork at front of the property.
 - (d) Failing to insure the property and provide evidence that insurance has been in place since 2018.
 - (e) Knowingly or negligently allowing the property to be used for immoral or illegal purposes (fraudulent credit card claims/online transactions and other criminal activity) and causing a nuisance by requiring the Applicant to secure the property at a cost of £549.60.
 - (f) Causing a nuisance or annoyance by allowing detritus and rubbish to accumulate inside and out and presenting a health hazard.
 - (g) Causing a nuisance and annoyance by causing neighbouring properties to fall in value due to the unsightly and run down state of the Property.
9. It is for the Applicant to demonstrate on the balance of probabilities that the Respondent has breached the terms of his lease in this way.

The Documents

10. The Tribunal considered the documents in a PDF bundle prepared by the Applicant comprising 170 pages. Additional documents (a copy of the lease, and two other leases from Forestfield, showing Clause 2 in full) were provided after the hearing at the request of the Tribunal. Where documents are referred to they are referenced by the page number on the document '[]'.

The hearing

11. Ms Beer, one of the Directors of Forestfield Management Company Limited, attended for the Applicant and was represented by Mr Ali of Counsel, instructed by Stevensdrake Solicitors.
12. Mr Govett did not attend, and no reasons were given for his absence.

Preliminary issues

13. As Mr Govett was not in attendance, the Tribunal considered whether it should proceed in his absence. It considered rules 3 and 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013.
14. The Tribunal was satisfied that Mr Govett had been notified of the date of the hearing, and that notice had not been returned undelivered. The Tribunal decided it was in the interests of justice to proceed in his absence. If the hearing was adjourned there was no guarantee Mr Govett would attend on the next occasion, given his failure to comply with the directions. He had had the opportunity to provide information for the Tribunal to consider but had not done so. The issues were of some considerable importance to him, given they had the potential to allow his lease to be forfeited. However, even if the Tribunal were to find a breach, he would have an opportunity to apply for relief from forfeiture in the event of such proceedings.
15. The hearing proceeded by way of submissions from Mr Ali, the evidence of Ms Beer being unchallenged.

Discussion and conclusions

16. The purpose of bringing proceedings under section 168(4) of the 2002 Act is to enable a landlord of a long lease of a dwelling to serve a section 146 notice to forfeit the lease for breaches of covenant by the tenant. In other words, it is the first step towards the freeholder taking possession of and depriving the Respondent of the Property. The provisions of section 168 are set out in full in the Appendix to this decision.
17. If proceedings are brought under s168 of the 2002 Act, the Tribunal is required to determine whether the tenant has committed an actionable breach of covenant. The Tribunal's jurisdiction under section 168(4) is limited to making a finding of fact on whether or not a breach has

occurred. The Tribunal's jurisdiction does not extend to deciding whether the breach had been remedied. That is a question for the Court in any subsequent action for forfeiture of the lease (*Swanston Grange (Luton) Management Limited v Eileen Langley-Essen* (LRX 12/2007)). However, Judge Hutchinson in that case confirmed that the Tribunal can decide whether the landlord is estopped from asserting the facts on which the breach of covenant is based.

18. The Applicant's case is set out in the Application [4] to [18] and the witness statement of Ms Beer dated 23 May 2025 [28] to [33] together with the supporting documentary evidence.
19. Mr Ali confirmed the Applicant no longer pursued the alleged breach of Clause 2(3) (failure to pay rent and service charge) set out in its letter of 5 June 2024 [108].
20. The Applicant relies on the following clauses of the lease
 - Clause 2(6) – duty to keep the demised premises in good and substantial repair,
 - Clause 2(7) – duty to repaint internal and external wood and iron work every 7 and 4 years respectively
 - Clause 2(9) – duty to allow Landlord, his surveyors, agents and workmen to enter the demised premises to inspect,
 - Clause 2(10) – duty to keep the demised premises insured and produce copies of the insurance policy and receipts for premiums to the Landlord on demand,
 - Clause 2(16) – duty to paint external window and door frames only in white, and front door only in one of colours specified by the Lessor,
 - Clause 2(17) – duty not to do or allow to be done anything that causes a nuisance, annoyance, damage or disturbance to the Lessor or the owner or occupier of any neighbouring property.
21. In reaching its decision the Tribunal considered the totality of the evidence in the round and the submissions made by Mr Ali.
22. The Tribunal is satisfied that the Official Copies of the Register of Title demonstrate that the Applicant is the freehold owner of Forestfield, which is subject to the lease for 23 Highdown Court, Forestfield, Furnace Green, Crawley, RH10 6PR under Title WSX43463 [66]. The Official Copies also show that Mr Govett is the leasehold owner of the Property under Title SX131870 [86]. The Official Copies show that the Respondent's leasehold title is unencumbered by any mortgage or charge.
23. The Property comprises a single storey dwelling with a block of garages underneath set within a small cul de sac of similar properties. The accommodation comprises a hallway, living room, kitchen, two

bedrooms and a bathroom with WC. There are small gardens to the front and rear.

24. The lease of the Property is dated 5 April 1971 and was made between Crawley Co-Partnership (Forestfield) Housing Association Limited and Colin James Guest and Sandra Guest. The term is for 99 years less 7 days from 29 September 1968 [86] and [91].
25. Clause 2 the lease contains the Lessees covenants. The Respondent covenants with the Lessor:
 - (1)
 - (6) *From time to time as often as occasion shall require....at his own expense well and substantially to renew repair uphold support maintain cleanse amend and keep in good and substantial repair and condition the demised premises included all glass.....*
 - (7) *.....once in every subsequent fourth year....to paint grain varnish and colour all the external wood and iron work and parts usually painted grained varnished and coloured of the demised premises.....and once in every subsequent seventh year....to paint with two coats of good oil paint...all the wood iron and other parts of the inside of the demised premises usually painted.... and in addition to the paper grain varnish distemper wash stop whiten and colour all such parts as are usually or as ought to be so treated.*
 - (8)
 - (9) *To permit the Lessortheir surveyors or agents with or without workmen....at all reasonable times in the daytime to enter upon and examine the condition of the demised premises and thereupon to serve upon the Lessee notice in writing specifying all defects decays and wants of repair to the demised premises for which the Lessee is liable....and if the Lessee does not within two months after service of such notice...substantially repair and make good all such defects decays and wants of repair then to permit the Lessor to enter....and execute the same...*
 - (10) *....to insure the demised premises and to keep the same.....insured from loss or damage by fire and aircraft to the full cost of reinstatement.....in some well established office in England to be approved in writing by the Lessor....and to pay all premiums and sums of money necessary for that purpose and on demand to produce to the Lessor the policy...of such insurance and the receipt of every payment.*
 - (11)
 - (16) *Not to paint external window frames and door frames in any colour other than white or external doors other than in one of such a number of colours as may.....be specified by the Lessors architects.....*

(17) Not to do or allow to be done upon the demised premises....anything which may be to the nuisance annoyance damage or disturbance of the Lessor.....or the owner or occupier of any adjoining or neighbouring property.

26. In relation to each of the breaches alleged, the Tribunal made its determination for the following reasons.

Failure to repair in Breach of Clause 2(6)

27. The Tribunal determines that the Respondent has breached Clause 2(6) of the lease by failing to renew, repair, uphold, support, maintain, cleanse and keep the Property in good and substantial repair and condition including all glass.
28. The Tribunal accepts the Applicant's submission that the entire property has been allowed to fall into a substantial state of disrepair.
29. In reaching that determination, the Tribunal has given weight to the photographs appearing at [116] to [148] and paragraphs 17 to 19 of Ms Beer's witness statement [30]. The Tribunal was satisfied the photos at [116] to [141] were taken, as Ms Beer said, on the date when the property was inspected by the Applicant's directors in early May 2024. The photographs at [142] to [146] were clearly taken after the property was boarded up. Ms Beer states this was on 21 May 2025, which the Tribunal finds consistent with the further plant growth evident in the front garden.
30. The Tribunal finds that the photographs and evidence as a whole indicate that the Property has been abandoned by the Respondent. It finds that some renovation or building works appeared to have been in process, but remained unfinished and had subsequently fallen into a state of considerable and unsightly disrepair by May 2024. For example, in the kitchen, cabinets and ceramic tiles had been removed from what appears once to have been a fitted kitchen but work to replace the units was left undone. Works appeared to have been partly undertaken in the bathroom but had been abandoned [129]. The Property was clearly insecure and open to the intruders as the glass to the front door was smashed [117].
31. On balance, the Tribunal finds clear evidence of the following defects and items of disrepair based on the photographs:
- Holes in or defective plasterwork to walls and ceilings including in the kitchen, bathroom and living room [116, 117, 121, 126, 130, 133, 135]
 - Evidence of mould growth on walls, plasterwork, ceilings and door frames throughout, some severe [117, 119, 124, 133, 135, 141]
 - Dirty, broken and raised floor tiles in the hallway [117]
 - Broken glass to the front door [117, 137]
 - Internal doors to all rooms have been removed [117, 137]
 - Collapsed ceiling in living room [119, 135, 136, 139]

- Rusty radiator in the living room [119, 135]
 - Evidence of damp and/or water ingress [119, 121, 135, 136, 139]
 - Defective ceramic tiles around the sink, poorly fitting cupboards, broken floor tiles, mould growth and defects to plaster work in the kitchen [122]
 - Rotten front door, door frame and all window frames to the front exterior of the house [123, 125, 134]
 - Peeling and defective paintwork to all wooden surfaces to the front exterior of the property (door frame, window frames, door, wooden cladding) [123, 125, 127, 142-145]
 - Brickwork to the front of the house in need of re-pointing [125, 127]
 - Defective drainage from bathroom sink [129]
 - Broken iron railings to the rear of the Property [131, 138]
 - Debris, detritus, rubbish and unopened mail throughout, but in particular in the living room and hallway [117, 119, 138, 139]
32. The Tribunal is satisfied that the cause of the collapsed ceiling, defective plasterwork and serious mould growth in the living room is the result of substantial and ongoing water ingress and infers from this that there will be defects to the roof, roof covering and potentially the structural integrity of the roof (timberwork and so on).
33. Based on the Tribunal's experience, it was satisfied that the failure to repair was longstanding and of several years duration, evidenced by the extent and severity of damage clearly visible from the photographs submitted.
34. The Tribunal is satisfied on the basis of the photographs at [142] to [146] that no works had been carried out to the property by the Respondent between 16 May 2024 when the property was secured with boarding and 21 May 2025 despite him having been served with notice of the defects and a warning regarding forfeiture proceedings on 5 June 2024 [106].

Breach of Clause 2(7)

35. The Tribunal accepts and finds there to be a breach of Clause 2(7). As set out in paragraph 31 above there is peeling and defective paintwork to all wooden surfaces to the front of the property (door frame, window frames, door and timber cladding), and the iron railings to the rear of the property are rusted and are either unpainted or with peeling paint. On the basis of the photographs at [123, 125, 127, 131, 134, 138, and 142-145], the Tribunal, relying on the expertise of its members, is satisfied that the exterior wood and iron work have not been painted every fourth year, which, therefore, in addition to amounting to a failure to repair is a breach of Clause 2(7) which specifically relates to the repainting obligations on the Respondent.
36. The Tribunal makes no finding as to a breach of Clause 2(7) in respect of the internal paintwork. There is no clear evidence of iron within the

interior, and on the basis of the photographs although there are defects to the painted surfaces (damp, mould and damaged plasterwork) it is not possible to determine whether the surfaces have been painted within the past 7 years.

Breach of Clause 2(9)

37. The Tribunal determines that the Respondent has breached Clause 2(9) of the lease by failing to respond to the Applicant's solicitors' correspondence of 5 June 2024 which requested he give access to the Applicant within 21 days to enable a full examination of its state and condition for the purpose of preparing a detailed schedule of dilapidations [110].
38. The Tribunal is satisfied that the Respondent received that letter as in response, he appears to have paid £1,500 in respect of the service charge arrears on or around 25 June 2024 [32]. The Tribunal finds, however, that by 9 May 2025, the Applicants' solicitors had not received a response to their letter of 5 June 2025 [114]. Accordingly, the Tribunal was satisfied the Respondent was in breach of his obligation to provide access.

Breach of Clause 2(10)

39. The Tribunal determines that the Respondent is in breach of Clause 2(10) by failing to provide to the Applicant a copy of a certificate and policy of insurance for the Property by 26 June 2024 as demanded.
40. The Tribunal is satisfied that in its letter of 5 June 2024, the Applicant's solicitors requested copies of insurance documentation within 21 days showing that the property was insured and had been insured since 2018 [110]. The Tribunal is satisfied that by 9 May 2025 that documentation had not been provided as there had been no contact from the Respondent [114].

Breach of Clause 2(17)

41. The Tribunal makes no finding as to breach of Clause 2(17). Whilst the Tribunal fully accepts that the property appears to be in a considerable state of disrepair and was open to the elements until it was secured in May 2024, the Applicant has produced no documentary evidence supporting its claims as regards to illegal or immoral activities alleged to have taken place at the property. Specific claims are made by the Applicant that persons unknown had accessed the property and undertaken fraudulent credit card claims/online transactions and other criminal activity. However, no supporting evidence has been produced to substantiate this claim.
42. Nor has the Applicant produced copies of reports or statements from other residents either about the condition of the Property and its impact on them, the congregation of youths around the Property, or the reduction in value of neighbouring property all of which are claimed to amount to a breach of Clause 2(17). The Tribunal is satisfied that if such complaints

had been made, it would have been a straightforward matter for the Applicant to produce them, or a witness statement from occupiers of neighbouring properties that are said to have been impacted, but it has not.

43. Given the serious implications that may flow from a determination a breach of covenant as occurred, the Tribunal expects to see evidence to support the allegations made.

Conclusions

44. Having made the findings of fact set out above, the Tribunal determines that the Respondent breached the covenants in his lease dated 5 April 1971 as follows:

- (a) In breach of clause 2(6) of the lease, the Respondent has failed to renew, repair, cleanse and keep the Property in good and substantial repair and condition (including glass) with the resulting defects including, but not limited to, those set out in paragraphs 31 and 32 above,

- (b) The Respondent has failed to paint the exterior wood and iron work every four years in breach of clause 2(7) of the lease,

- (c) The Respondent has since 5 June 2024 failed to allow access to the Applicant and its surveyors, agents or workmen for the purpose of examining the condition of the property in detail in breach of clause 2(9), and

- (d) The Respondent has since 26 June 2024 been in breach of Clause 2(10) as he failed to provide evidence to the Applicant that the property is insured and has been insured since 2018.

45. Having made that determination, the Tribunal decided the Respondent is to pay to the Applicant within 28 days of this Decision the tribunal fees paid by the Applicant in the sum of £330. The Tribunal considers it reasonable for the Respondent to reimburse those fees as the Applicant has succeeded in the most, but not all, of the grounds of their application. The Respondent has been aware of the potential for these proceedings but has failed to take action or respond to the Applicant.

Signed: Judge R Cooper

30 July 2025

Note: Appeals

1. A person wishing to appeal this decision to the Upper Tribunal (Lands Chamber) must seek permission to do so by making written application

to the First-tier Tribunal at the Regional office that has been dealing with the case.

2. The application must arrive at the Tribunal within 28 days after the Tribunal sends to the person making the application written reasons for the decision, and should be sent by email to rpsouthern@justice.gov.uk.
3. If the person wishing to appeal does not comply with the 28-day time limit, the person shall include with the application for permission to appeal a request for an extension of time and the reason for not complying with the 28-day time limit; the Tribunal will then decide whether to extend time or not to allow the application for permission to appeal to proceed.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates, state the grounds of appeal, and state the result the party making the application is seeking.

Appendix

The Law

Section 168 of the Commonhold and Leasehold Reform Act 2002 provides as follows:

"(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 the appropriate tribunal for a determination that a breach of a covenant or condition in the lease has occurred.

