



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

**Case reference** : LON/00AW/LBC/2025/0616

**Property** : Ground floor Flat, 62 Redcliffe Square  
London SW10 9BN

**Applicant** : Manorwood Estates Limited

**Representative** : Praxis Block Management Did not  
attend

**Respondent** : Mr Andrzej Piotr Leszczski

**Representative** : Did not attend

**Type of application** : Determination of a breach of Covenant  
under Section 168(4) of the  
Commonhold and Leasehold Reform  
Act 2002

**Tribunal** : Judge Daley

**Venue** : Heard at 10 Alfred Place, London WC1E  
7LR On 27 August 2025

**Date of decision** : 10 September 2025

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**DECISION**

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## **The Decision**

- I. The Tribunal determines that the Respondent has breached clauses 3, 3.9.1, 3.9.2, clause 4.1 and fourth Schedule clause 2 and 11 of the fourth Schedule of the lease.**
- II. The Tribunal is not satisfied on a balance of probabilities that a breach of covenant occurred in respect of clause 3.9 and clause 4.5 of the lease and clause 3 and 4 of the fourth schedule.**
- III. The Tribunal makes no order under Section 20 C of the Landlord and Tenant Act 1985 limiting the landlord's costs.**
- IV. The Tribunal makes an order that the Respondent reimburse application fee only.**

## **The Application**

1. On 1 April 2025, the Applicant applied for a determination of whether the Respondent had committed a breach of clauses in the lease.
2. The premises which are subject to the application is a ground floor flat, in a block of five flats in a converted building.
3. The Applicant is the freeholder of the block of flats in which the premises is situated. The respondent is the leaseholder pursuant to an assignment of lease, of the premises known as flat 62 Radcliffe Square London SW10 9BN ("the Premises"), pursuant to a lease dated 24 June 1993.
4. Directions were given on 1 May 2025. the following directions were given:- "(2) The tribunal will reach its decision on the basis of the evidence produced to it. The burden of proof rests with the applicant. The tribunal will need to be satisfied: (a) that the lease includes the covenants relied on by the Applicant; and (b) that, if proved, the alleged facts constitute a breach of those covenants. (4) The respondent and any mortgagee or occupier of the property should seek independent legal advice, as these proceedings may be a preliminary to court proceedings to forfeit the lease."
5. This matter was listed for an in person hearing on 27 August 2025 at 10 am.

## **The Hearing**

### **Preliminary Matters**

6. The hearing was due to start at 10am however neither party attended nor was represented. On enquires from the clerk, the Applicant stated that

they were unaware of the hearing. However, they accepted that they had received a copy of the directions which provided notice of the hearing date and the time and venue for the hearing.

7. The Respondent was not contactable by the Tribunal as the Tribunal did not have a telephone number for the Respondent, however the Tribunal had sent a copy of the directions to the respondent.
8. At 10.15 am an email was received from Mr Arjun Nath of Praxis Block Management. In his email he apologised for his non-attendance and asked whether the Judge could make a determination on the papers.
9. In reaching its decision as to whether to hear this matter in the absence of the parties the Tribunal considered the following Tribunal rules.
10. Rule 34 of The Tribunal Procedure (First-tier Tribunal) (Property Tribunal) Rules 2013 provides “*If a party fails to attend a hearing the Tribunal may proceed with the hearing if the Tribunal—  
(a) is satisfied that the party has been notified of the hearing or that reasonable steps have been taken to notify the party of the hearing; and  
(b) considers that it is in the interests of justice to proceed with the hearing.*”
11. And also rules 31 and rule 3  
Rule 31 states:- *(1) Subject to the remainder of this rule, the Tribunal must hold a hearing before making a decision which disposes of proceedings.  
(2) The Tribunal need not hold a hearing if consent to proceeding without a hearing has been given by—  
(a) each party; and  
(b) each other person who has been sent a notification as being entitled, invited or permitted to attend the hearing.  
(3) For the purposes of paragraph (2) a party or other person shall be taken to have consented if—  
(a) the Tribunal has given that party or other person not less than 28 days’ notice of its intention to dispose of the proceedings without a hearing, and  
(b) no objection has been received from that party or other person within that time,  
except that the Tribunal may regard such a party or other person as having consented upon shorter notice in urgent or exceptional circumstances.*
12. **3.**—*(1) The overriding objective of these Rules is to enable the Tribunal to deal with cases fairly and justly.*
13. *(2) Dealing with a case fairly and justly includes—*
14. *(a) dealing with the case in ways which are proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and of the Tribunal.*

15. *(b)avoiding unnecessary formality and seeking flexibility in the proceedings.*  
*(c)ensuring, so far as practicable, that the parties are able to participate fully in the proceedings;*
16. *(d)using any special expertise of the Tribunal effectively; and*
17. *(e)avoiding delay, so far as compatible with proper consideration of the issues.*
18. The Tribunal was aware that it had the power to hear cases in the absence of parties if it was satisfied that the parties had been notified of the hearing. The Tribunal was satisfied that the directions provided notification.
19. The Tribunal reminded itself that it could only decide this case on the papers it had to be satisfied that it was appropriate to do so and that there was sufficient evidence before the Tribunal on which to make a decision.
20. It considered that the Respondent had no notice that this matter would proceed as a paper determination although he was aware that the matter was due to be heard. The Tribunal was aware that there was an email from the Respondent after the directions were served indicating that he was not going to attend the hearing due to his health.
21. The Tribunal decided to hear this matter in the absence of the parties as a paper determination. It decided that the Respondent had chosen not to attend and had not asked for an adjournment.
22. In considering rule 3, the Tribunal reminded itself that there is a public interest in effectively using the resources of the Tribunal. This hearing has been listed for today and if the matter was adjourned this would involve further costs and delay. Accordingly, although there was an interest in the Respondent being able to hear the case brought by the Applicant, this would not have occurred in any event due to his non-attendance.
23. The Tribunal reminded itself that a decision concerning a breach of covenant may have serious consequences, however the Tribunal was satisfied that in all of the circumstances and in giving effect to the overriding objective, it was fair and just to proceed with this matter in the absence of the parties.

## **The Evidence**

Prior to the hearing the Tribunal had been provided with a hearing bundle which consisted of 136 pages.

## **The Law**

## **Section 168 (4) of the Commonhold and Leasehold Reform Act 2002**

24. 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.
25. The Tribunal considered each of the breaches in turn and the evidence it had before it in coming to its decision.
26. The evidence and the reason for the decision is set out below on each of the alleged breaches.

### **The Decision of the Tribunal and reasons for the decision**

***Clause 3 In accordance with the tenants covenants in that behalf therein contained to repair and decorate and make good all defects in the repair decoration or condition of the Demised Premises of which notice in writing shall be given by the Lessor to the Tenant within two calendar months next after the giving of the notice.***

27. Within the application documents the Tribunal was provided with a copy of a report from AGO Fire Safety Service dated 24 January 2022. There was also an email from Mr Scott Young of Spy Young, who had been commissioned to carry out an inspection.
28. In his email dated 27 March 2024, he reported that he had inspected the basement flat due to complaints that the occupier had made concerning water leaking from the ground floor flat, the leaks which were reported to have occurred from the washing machine were noted not to have happened recently, as the tenant was reported to have not used the machine recently. It was noted that the damage had been made good. There were also the reports of leaks into the kitchen from the ground floor flat roof terrace, and the reports of smells from the sewer.
29. The email stated that Mr Scott had not been able to gain access to the ground floor flat, and that on inspection of his front door it did not appear to be fire complaint.
30. On 16 April 2024, the managing agents wrote to the respondent noting that the door did not comply with updated regulations and asking that it should be replaced by the 17 June 2024. However, the Applicant's case is that the door was not replaced.

31. The lease provides by clause 1:1 that the door and the frame was part of the demised premises. In accordance with the fire safety regulations the door no longer complies with the updated requirements.
32. Having considered this, the tribunal asked itself whether the failure to have a compliant door amounted to a breach of the covenant. The Tribunal was satisfied that the wording *defective* was wide enough to cover the requirement to have a door which complies with fire regulations according on a balance of probabilities the Tribunal finds that the respondent is in breach of this clause.
33. **Clause 3.9 To be responsible for and to keep the Lessor fully indemnified against all damages losses costs expenses actions demands proceedings claims and liabilities made against or suffered or incurred by the Lessor arising directly or indirectly out of 3.9.1 any act or omission or negligence of the Tenant or any nay person at the Demised Premises expressly or impliedly with the Tenants authority and 3.9.2 any breach or non-observance by the Tenant of the covenants conditions of this lease or any of the matters to which this demise shall be subject.**
34. The Tribunal carefully considered the evidence within the bundle; there was no allegation that the Applicant had suffered losses or damages because of the actions of the Respondent within the meaning of this clause. There were no invoices or letters which implied that there had been any proceedings or claims of liability.
35. Accordingly, the Tribunal is not satisfied on a balance of probabilities that the respondent is in breach of this clause.
36. **Clause 4 The Tenant hereby covenants with the Lessor and with and for the benefit of the Flat Owners and so far is applicable with the Tenants of any other part of the building that the Tenant will 4.1 Throughout the term keep the interior and the floors doors windows and sash frames and the windows and other glass of and in the demised premises and all the Lessors fixtures and fittings and appurtenances thereunto belonging of whatsoever natures and the sanitary and water apparatus thereof and all additions thereto at all times swept and clean and good and substantial repair and decorative condition...** The Tribunal has noted the particular wording of this clause, which includes keeping the premises swept and in good condition. And the use of the term decorative condition.
37. The Tribunal has seen photographs of the flat, the latest of which was dated in March 2025, the Tribunal is satisfied that the photographs displayed at that date, that the flat was in breach of the condition. The Tribunal has no evidence that the condition of the flat has changed accordingly the Tribunal finds that the respondent is in breach of clause 4.

38. ***Clause 4.5 observe and perform the regulations in the Fourth Schedule Hereto... The Fourth Schedule Regulations Clause 2 not to do or suffer in or upon the Demised Premises or any part thereof ... or act or thing which may become a nuisance or annoyance or cause damage to the Lessor or the Tenants of the Lessor or the occupiers of any part of the building..."permit or cause to be done provided.***

39. Within the bundle the Tribunal was provided with an email from a leaseholder which was dated 1 April 2025, included within this email were photographs of the internal communal parts. The tenant in his email stated that "... unfortunately this has become a health hazard for us all it is becoming quite disgusting."

40. The email included photographs which depicted hoarding of rubbish within the communal area, however, although this was alleged to have been caused by the Respondent. there is no evidence of who is alleged to have caused the hoarding, and the email does not specify that the actions are that of the respondent. Neither was there any letters sent to the respondent setting out that he was alleged to be responsible for the condition of the common parts.

41. In the circumstances the Tribunal cannot be satisfied on the evidence before it, on a balance of probabilities that the hoarding can be attributed to the respondent.

***Clause 3 not to do or permit to be done an act or thing which may render void or voidable any policy of insurance maintained in respect of the building or cause an increased premium to be payable..."***

42. The Tribunal carefully considered whether there has been a breach of the clause. There is a letter written to Jane Hill, of City Gate Insurance dated 3 March 2025. In the letter, Safi Khan reported that the door to the tenant's flat and sometimes the front door to the premises was being left open.

43. There is no follow up information from City Gate insurance which explains the impact that this had on the insurance, or to suggest that the insurance was either voided or that the premium increased. Accordingly, the Tribunal are not satisfied that breach of Clause 3 of the fourth schedule is t made out.

44. ***Clause 4, of the fourth schedule Not to throw or permit to be thrown any dirty rubbish rags or other refuse into sinks baths or lavatories cisterns or waste or soil pipes in the demised premises.***

45. The Tribunal was not provided with any evidence in support of this allegation. Accordingly, the Tribunal are not satisfied that clause 4 of schedule 4 of the lease has been breached.

46. ***Clause 11 At all times when not in use to keep shut the entrance door to the demised premises."***

47. The Tribunal reminded itself of the evidence referred to above that is the letter to Citygate insurance. The Tribunal was also provided with copies of photographs which showed that the door of the demised premises was on more than one occasion left open. The Tribunal noted that there was a direct complaint that this was the action of the respondent. The Tribunal is satisfied that clause 11 of the fourth Schedule has been breached

48. **Having considered all of the evidence. the Tribunal finds that the Respondent breached clauses 3, 3.9.1, 3.9.2, and clause 4.1 and the fourth Schedule clause 2 and 11 of the lease.**

49. **The Tribunal is not satisfied on a balance of probabilities that a breach of covenant occurred in respect of clause 3.9 and clause 4.5 of the lease.**

#### **Application under s.20C and refund of fees**

50. The Tribunal having considered its determination in respect of the lease, and the findings, then went on to consider whether to make an order under Section 20 C which would limit the amount of legal costs payable by way of service charges. (The Tribunal did not separately consider whether the lease permitted such recovery). Given the findings it has made the Tribunal considers that as t it is not just and equitable to make an order under Section 20C.

51. The Tribunal noted that although provision was made for a hearing date, the Applicant did not attend accordingly although it finds that the respondent should reimburse the costs of the application fee. It finds that the hearing fee should not be paid by the respondent.

Signed: Judge Daley

Date: 10 September 2025



## **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).