



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

Case reference : **LON/ooAF/LBC/2025/0662**

Property : **Flat 6 The Acers, 2 Elmstead Lane, Chislehurst, Kent BR7 5EL**

Applicant : **Doberm Properties Limited**

Representative : **Spalter Fisher LLP**

Respondent : **Giuliano Riccardo Testa**

Representative : **No appearance**

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

Type of application : **Breach of Covenant**

Tribunal Member : **Judge Robert Latham**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **13 January 2026**

DECISION

Decisions of the Tribunal

- (1) The Tribunal determines that for the purposes of section 168(4) of the Commonhold and Leasehold Reform Act 2002, the Respondent has breached the terms of his lease in that he has (i) failed to pay his council tax (breach of Schedule 8, paragraph 7 of his lease); and (ii) failed to

notify his landlord of any notices served by the local authority affecting his flat (breach of Schedule 8, paragraph 19 of his lease);

- (2) The Tribunal determines that the Respondent shall pay the Applicant £114 within 28 days of this Decision, in respect of the reimbursement of the tribunal fees paid by the Applicant.

The Application

1. By an application dated 8 September 2025, the Applicant seeks an order that the Respondent has breached a term of his lease pursuant to section 168(4) of the Commonhold and Leasehold Reform Act 2002 (the "2002 Act"). The application relates to Flat 6 The Acres, 2 Elmstead Lane, Chislehurst, Kent BR7 5EL ("the Flat"). The Applicant stated that the application was urgent as a mortgagee had obtained an order for possession. It is unclear whether the Respondent occupies his flat.
2. On 8 October 2025, the Tribunal gave Directions. The Directions provided for the application to be determined on the papers, unless either side requested an oral hearing. Neither party has done so. On 11 December, the Tribunal emailed a copy of the Directions to the Respondent.
3. On 29 October 2025, the Applicant sent the Respondent a copy of the documents on which it seeks to rely by both email and post. These included up-to-date official copy of the register and file plan of both the freehold and leasehold titles, the lease of the subject property and a bundle of the relevant correspondence.
4. The Respondent has failed to engage with this application. By 27 November 2025, the Respondent had been directed to serve his Statement of Case in response to the application together with any witness statements and documents on which he seeks to rely. He has failed to comply with this Directions.

The Lease

5. The Respondent occupies Flat 6, the Acres, pursuant to a lease dated 28 February 2007. This is a two bedroom flat. The Respondent is the original tenant.
6. By Clause 3.1 of the lease, the Lessee covenants to observe and perform the obligations set out in the Eighth Schedule. The following paragraph of this Schedule are relevant:
 - (i) By paragraph 7, the Lessee covenants:

To pay and discharge all rates taxes assessments charges duties and other outgoings whatsoever whether parliamentary parochial or of any other kind which now are or during the Term shall be assessed or charged on or payable in respect of the Demised Premises or any part thereof or by the landlord tenant owner or occupier thereof.

(ii) By Paragraph 19, the Lessee covenants:

To deliver to the Lessor forthwith a copy of every notice or other document of whatever description affecting or likely to affect the Demised Premises or any part thereof received by the Lessee from any authority or person whatsoever whether such notice or other document as aforesaid be served upon the Lessee or upon any subtenant of the Lessee and at the request of the Lessor to make or join with the Lessor on making such objections or representations against or in respect of any notice or other document as aforesaid as the Lessor shall deem expedient

The Alleged Breaches

7. The Applicant complains that the Respondent has failed to pay the council tax due on the Flat. As a result, the London Borough of Bromley("Bromley") pursued the Applicant (as freeholder) for the unpaid council tax. On 13 May 2025, Bromley Magistrates Court made a liability order against the Applicant. The Applicant has applied to set the order aside.
8. On 16 May 2025, Bromley issued a further summons against the Applicant for subsequent council tax arrears of approximately £2,496.34. A court hearing was originally fixed for 10 June 2025. This was adjourned until 5 August 2025. In the interim, Bromley withdrew the summons.
9. The Applicant states that the Respondent failed to provide the Applicant with any notice of Bromley's correspondence, summonses or liability orders. As a consequence of the Respondent's failure to meet his council tax obligations, the Applicant has incurred significant legal costs and expenses. At the date of the application, these costs were estimated at £2,400.

The Law

10. Section 168 of the Commonhold and Leasehold Reform Act 2002 provides that:

"(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.

11. In approaching this application, we have regard to guidance provided by Martin Rodger QC, the Deputy President, in *Marchitelli v 15 Westgate Terrace Ltd* [2020] UKUT 192 (LC); [2021] 1 P&CR 9 (at ++[49]):

"The purpose of proceedings under s.168(4) of the 2002 Act, is to establish the facts on which steps to forfeit an extremely valuable lease will then be founded. Before forfeiture proceedings may be commenced the landlord is required by s.146(1) of the 1925 Act, to serve a notice "specifying the particular breach complained of" and if that breach is remedied and compensation is paid no forfeiture will occur. Before a s.146 notice may be served the FTT must determine that "the breach" has occurred (s.186(2)(a) of the 2002 Act). It follows, therefore, that the determination required of the FTT must be sufficiently specific to provide the basis of a s.146 notice."

The Tribunal's Determination

12. On the basis of the undisputed evidence before it, the Tribunal is satisfied that the Respondent has breached the terms of his lease in that he has:

(i) failed to pay his council tax (breach of Schedule 8, paragraph 7 of his lease); and

(ii) failed to notify his landlord of any notices served by the local authority affecting his flat (breach of Schedule 8, paragraph 19 of his lease).

Refund of Fees

13. The Applicant has paid tribunal fees of £114. In the light of our findings, the Tribunal orders the Respondents to refund the tribunal fees of £114 within 28 days of the date of this decision pursuant to Rule 13(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (“the Tribunal Rules”).
14. The Tribunal notes that this application may not have been served on any mortgagees and/or any subtenants/occupiers. If any mortgagee or sub-tenant considers that they have been prejudiced, it is open to them to apply to set this determination aside.

Judge Robert Latham
13 January 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).