FIRST-TIER TRIBUNAL
PROPERTY CHAMBER
(RESIDENTIAL PROPERTY)

Case Reference	**:**	**LON/00AE/LBC/2025/0666**
Property	**:**	**Ground Floor Flat, 77 Oldfield Road, London NW10 9UT**
Applicant	**:**	**Muhammad Musaddaq**
Representative	**:**	**Marcella Cox of Jaffe Porter Crossick LLP Solicitors**
Respondent	**:**	**Mary Virginia Cecilia Thomas**
Representative	**:**	**Not represented**
Type of Application	**:**	**Application for determination as to breach of covenant in lease under section 168(4) Commonhold and Leasehold Reform Act 2002**
Tribunal Member	**:**	**Judge P Korn**
Date of decision	**:**	**27 January 2026**

DECISION

Description of hearing

The decision was made on the papers alone without an oral hearing.

Decision of the tribunal

Breaches of then covenant or covenants contained in clause 2(3) of the Lease have occurred.

The application

1. The Applicant seeks a determination pursuant to section 168(4) of the Commonhold and Leasehold Reform Act 2002 ("**the 2002 Act**") that one or more breaches of covenant have occurred under the lease of the Property.

2. The Applicant is the freehold owner of the building ("**the Building**") of which the Property forms part, and the Respondent is the current leasehold owner of the Property. The Respondent's lease ("**the Lease**") is dated 30 April 1987 and was made between Henry Mansfield Limited (1) and Christopher Brian Janes and Lynne Janes (2).

3. The Applicant alleges that the Respondent has been in breach of covenants contained in clause 2(3) of the Lease.

4. Clause 2(3) of the Lease reads as follows:-

   "The Lessee HEREBY COVENANTS with the Lessor as follows: … Throughout the said term to keep the interior and exterior of the Premises and all fixtures and fittings therein including the foundations ceilings floors the joists and beams on which the floors are laid cisterns tanks sewars drains pipes wires ducts and conduits which form part of the Premises and all additions thereto in good and substantial state of repair decoration and condition and to replace or renew all worn and damaged parts of the Premises".

Respondent's absence and lack of response to application

5. On 6 November 2025 the Applicant made an application to the tribunal for an order under Rule 16(11)(a) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 ("**the Rules**") waiving the requirement to serve the Respondent with the application, and seeking consequent changes to the directions, including a direction that the application should be determined without a hearing. In support of that application the Applicant provided a report from an enquiry agent. The application was considered by Judge Walker.

6. As noted by Judge Walker, Rule 16(11)(a) of the Rules permits the tribunal to waive any requirement under the Rules to send or deliver a notice or other document to a person if that person cannot be found after all diligent enquiries have been made. On the basis of the evidence supplied with the application, Judge Walker was satisfied that all diligent enquiries had been made and that the Respondent could not be found. He therefore waived the requirement for the Applicant to serve a copy of the application and supporting documents on the Respondent, varied the directions so that (in particular) a determination could proceed without the Respondent first providing a written statement of case, and converted the oral hearing to a determination on the papers alone.

Applicant's submissions

7. In his witness statement, the Applicant states that in or around March 2021 his son became aware that there had been a fire at the Property. He had been visiting some of the Applicant's properties to see which of them needed new windows, and it was when he visited the Building that he saw there had been a fire at the Property, that it had been boarded up and that a notice had been put up by either the Fire Brigade the Police.

8. On or around 19 March 2021 the Applicant's son was able to find out details of the fire from the Fire Brigade, following which the Applicant sent the Fire Brigade an email to notify them that he was the freehold owner of the Building and asking for further details relating to the fire. In response, Tavell Carter on behalf of the London Fire Brigade informed him that the fire incident had been recorded as a deliberate incident, which the Applicant understood to mean arson. A copy of his email exchange with Mr Carter is in the hearing bundle.

9. After the fire the Property became vacant and the Applicant did not have any contact details for the Respondent although he did have a telephone number for her partner, Simon. He kept ringing Simon to try to make an appointment to meet up with the Respondent and on one occasion Simon went to the Property and promised to put the Applicant in touch with the Respondent, but this did not happen. Since the fire, the Respondent (in the Applicant's words) has not been seen and appears to have abandoned the Property.

10. The Applicant states that despite the fire having caused extensive damage the Respondent has not carried out any repair works at all, and the Applicant has included within the hearing bundle copy photos showing the Property as it currently is – completely bordered up, with the extent of the damage clearly visible.

11. The only address that the Applicant has for the Respondent is that of the Property, and he states that it is clear that she is not living there.

His solicitors have tried to locate the Respondent by appointing an enquiry agent, and the hearing bundle contains a copy of their email of 30 May 2025 sent to his solicitors and providing details of their efforts to trace the Respondent. The Applicant does not have an email address for the Respondent.

12. On 23 June 2025 the Applicant's solicitors served a notice on the Respondent under section 146 of the Law of Property Act 1925, a copy of which is in the hearing bundle and to which there has been no response. The Property is becoming ever more dilapidated, and the Applicant states that needs to be able to regain ownership so that he can deal with the Property as necessary.

The statutory provisions

13. The relevant parts of section 168 of the 2002 Act provide 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 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.

(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."

Tribunal's determination

14. I note that clause 2(3) of the Lease is essentially a tenant's repairing covenant. It obliges the Respondent (as tenant) to keep the interior and exterior of the Property in good repair, decoration and condition and to replace or renew all worn and damaged parts of the Property.

15. It is clear from the Applicant's undisputed evidence that the Respondent has failed to comply with clause 2(3) of the Lease. That evidence shows the Property to be in a very poor condition and there are no submissions before me on behalf of the Respondent which might show that there has not been a breach of clause 2(3) of the Lease.

16. In the circumstances, I consider that there have been breaches of clause 2(3) of the Lease and therefore that – to use the language of section 168(4) of the 2002 Act – *"a breach of a covenant … in the lease has occurred"*.

Cost applications

17. There were no cost applications.

Name: Judge P Korn **Date:** 27 January 2026

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).