



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

Case reference : **CAM/00MF/LBC/2025/0002**

Property : **14 Copsewood, Wokingham, RG41 1AR**

Applicant : **Home Group Limited**

Representative : **Sebastian Reid, Counsel**

Respondent : **Craig Dennis Alfred Cook**

Representative : **Did not appear and was not represented**

Type of application : **Determination of an alleged Breach of
Covenant (Section 168 (4) Commonhold
and Leasehold Reform Act 2002)**

Tribunal members : **Judge Bernadette MacQueen
Roland Thomas, MRICS**

Venue : **Virtual hearing - Cloud Video Platform
(CVP)**

Date of hearing : **4 September 2025**

Date of decision : **8 September 2025**

DECISION

Decision of the Tribunal

For the reasons set out below, the Tribunal does not find that the Respondent has breached a covenant in the Lease of the Property.

The Background

1. The Applicant was a social housing provider and freehold owner of 14 Copsewood, Wokingham, RG41 1AR (“the Property”). The freehold title was registered under title number BK499410.
2. The Respondent was the leasehold owner of the Property, which was held on a shared ownership basis (the Respondent owned a 40% share and the Applicant a 60% share of the Property). The lease, dated 27 September 2019 and made between Home Group Limited (1) and Criag Dennis Alfred Cook (2) (“the Lease”), was for a term of 125 years and registered under title number BK505928.
3. The Property was described by the Applicant as a three bedroom semi-detached house with an upstairs bathroom and downstairs cloakroom/toilet. The Property had an enclosed rear garden, driveway to its side, and small open plan front garden
4. The Applicant sought a determination pursuant to section 168 of the Commonhold and Leasehold Reform Act 2002 (“the 2002 Act”) that the Respondent was in breach of covenant in the Lease, specifically paragraph 9 of Schedule 4 to the Lease.

The Hearing

5. On 4 April 2025, Directions were given by the Tribunal which included that the Applicant was to prepare a bundle of documents to use at the hearing and send these to the Tribunal and the Respondent by 7 May 2025. The Respondent was directed to prepare a bundle of documents to use at the hearing and send these to the Tribunal and the Applicant by 30 May 2025.
6. The Applicant provided the Tribunal with a bundle of documents consisting of 119 pages (the Bundle). No documents were received by the Respondent.

Proceeding in the Absence of the Respondent

7. The Respondent did not attend the hearing and was not represented. Having heard submissions from the Applicant, the Tribunal decided to proceed in the Respondent's absence.
8. In reaching this decision, the Tribunal considered Rule 34 of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 (the Rules), namely:
 - “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.
9. The Tribunal was satisfied that the Respondent had been notified of the hearing. The Applicant provided a certificate of service at page 112 of the Bundle. This certificate was signed by Christina Dudley, Housing Manager employed by the Applicant, and confirmed that on 15 April 2025 the application, covering letter and Directions had been hand delivered to the Respondent at the Property.
10. Further, the Applicant confirmed that on 20 June 2025, they had sent to the Respondent notice of the hearing by recorded delivery. Confirmation that the letter had been delivered to the Property was shown at page 116 of the Bundle.
11. The Tribunal was therefore satisfied that the Respondent had been notified of the hearing or that reasonable steps had been taken to notify the Respondent of the hearing.

12. The Tribunal considered that it was in the interests of justice to proceed with the hearing. The Applicant had attended the hearing and was represented. The Respondent had not provided the Tribunal with any documentation in accordance with the Directions and had not provided a reason for his non-attendance.
13. The Tribunal considered the overriding objective as set out in Rule 3 of the Rules. In particular, the Tribunal considered Rule 3(1)(a) and noted that to deal with cases fairly and justly included dealing with cases in ways which were proportionate to the importance of the case, the complexity of the issues, the anticipated costs and the resources of the parties and the Tribunal. To adjourn the case was not, in the Tribunal's view, a proportionate way of dealing with the matter. The Tribunal was ready to hear the case and the Applicant had attended. Further, the Tribunal considered Rule 3(2)(e) and the need to avoid delay, so far as compatible with proper consideration of the issues. There was no reason to delay the hearing and in reaching that decision, the Tribunal noted that the Respondent had failed to engage with the proceedings. The Tribunal therefore decided to proceed in the Respondent's absence.
14. The Tribunal heard oral evidence from Charlie Kenny, Housing Management Lawyer, heard submissions from Counsel on behalf of the Applicant and considered the Bundle.
15. The Tribunal did not consider that inspecting the Property was necessary or proportionate to the issues in dispute. Additionally, neither party requested an inspection.

The Lease and Legislation

16. Paragraph 9 of Schedule 4 provides that the leaseholder covenants as follows:

Schedule 4 – Leaseholder Covenants

ASSIGNMENT AND UNDERLETTING

- 9.1 Not to assign, underlet, charge or part with possession of part only of the Property.
- 9.2 Subject to paragraph 9.5 of this Schedule, not to underlet or part with possession of the whole of the Property.
- 9.3 Not without the prior written consent of the Landlord (such consent not to be unreasonably withheld) to assign the whole of the Property.
- 9.4 Not to assign the whole of this Lease unless the Leaseholder has first paid to the Landlord any Rent, Specified Rent, Service Charge, Insurance Rent or other sums payable under this Lease which have fallen due before the date of assignment.
- 9.5 Not following Final Staircasing to underlet the whole of the Property unless:
- (a) the underlease is on an assured shorthold tenancy agreement or any other tenancy agreement whereby the Leaseholder does not obtain security of tenure on expiry or earlier termination of the term;
 - (b) the underlease contains covenants substantially the same as those contained in the Regulations, other than the Regulation contained in paragraph 19.1 of Schedule 5; and
 - (c) the underlease provides that the undertenant must not do anything that would or might cause the Leaseholder to be in breach of the Leaseholder Covenants.
- 9.6 Within one month of any assignment, underletting, charge, parting with possession of or any other devolution of title to this Lease or the Property to serve notice on the Landlord giving details and to:
- (a) provide a certified copy of the transfer or other instrument of devolution of title; and
 - (b) pay the Landlord's reasonable registration fee which shall be no less than Fifty Pounds plus VAT (or such other

reasonable fee as the Landlord may from time to time specify) in respect of each document produced.

17. The relevant parts of Section 168 of the Commonhold and Leasehold Reform Act 2002 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.

(3) ...

(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.

(5) ...

(6) For the purposes of subsection (4), “appropriate tribunal” means—

(a) in relation to a dwelling in England, the First-tier Tribunal...

The Applicant’s Case

18. The Tribunal heard oral evidence from Charlie Kenny, Housing Management Lawyer employed by the Applicant. The Tribunal also considered the written statement made by Charlie Kenny dated 6 May 2025 at pages 81 to 86 of the Bundle.
19. Charlie Kenny told the Tribunal that final staircasing of the Property had not taken place. It was therefore the Applicant's position that the Respondent was in breach of paragraph 9 of the Fourth Schedule, as the Respondent had underlet the whole of the Property prior to final staircasing. The Applicant asked the Tribunal to determine a breach of covenant.
20. The Applicant relied on the following evidence in support of their application:
- a. Evidence from the police that the Respondent was not at the Property
 - b. Evidence from Neighbours.
 - c. Evidence that the property had been advertised on letting websites.
21. Turning to the evidence from the police that the Applicant relied upon, this evidence was at paragraph 11 (vi) of Charlie Kenny's statement of 6 May 2025 (page 85 of the Bundle). The statement read as follows:
- “Discovery of subletting has occurred by way of Police attendance to the property, whilst exercising power of arrest and by way of the Applicant's Applicant liaising with neighbours and agencies such as the Police, who confirmed that they were subletting from the Respondent.”
22. Charlie Kenny's witness statement and oral evidence to the Tribunal did not provide any further details as to why the Respondent's absence at the Property when the police attended meant that there was a breach of covenant.

23. With regard to evidence from neighbours, Charlie Kenny's witness statement stated that discovery of subletting occurred by the Applicant liaising with neighbours. However, no further written or oral evidence was provided to the Tribunal to substantiate this.

24. Counsel took the Tribunal to the application form (page 5 of the Bundle) where the Applicant stated in their application form to the Tribunal that on 2 July 2024 there had been a complaint from a neighbour that the Property had been empty for almost a year and someone had moved in who they suspected was subletting. However, no further detail was provided in evidence to explain why the neighbour suspected subletting. The Applicant further stated in their application form as follows:

“Also on 3 July 2024 the Applicants housing managers visited the property. A light was on in the hall, and a male answered the door, he stated he wasn't Mr Cook the owner, and said he would be back in a few days... the front garden was very overgrown.”

The Tribunal was not provided with any evidence from the Applicant's housing managers regarding this visit or what they understood from the male telling them that Mr Cook would be back in a few days.

25. Charlie Kenny gave evidence that the Property had been advertised on websites as available to rent (pages 93 to 111 of the Bundle). At pages 93 to 94 of the Bundle was a printout showing the Property listed on the website “bedandbreakfast.EU.B.V”. At pages 95 to 100 of the Bundle the Tribunal was provided with the terms and conditions of bedandbreakfast.EU.B.V.

26. At page 101 of the Bundle the Property was shown as being listed on the website Booking.com. Further, at page 102, the Applicant produced a statement from somebody called Henry Partridge who described himself as the host for the Property. Further, at page 103 was a review that was completed by “Dionne”. It was Charlie Kenny's evidence to the Tribunal that this was a review of a stay at the Property. The date that the Property

was reviewed was 25 July 2024 and the review stated “1 night – July 2024” which the Applicant submitted was a review from someone staying at the Property for one night in July 2024.

27. At page 109 was a printout from the website “Gites.fr” with the Property being shown on that website as available to rent.

28. The Applicant submitted that the Respondent had allowed Henry Partridge to host the Property and that the review from Dionne, dated July 2024, showed that the Property had been sublet. The Applicant therefore asked the Tribunal to find that a breach of covenant had occurred.

The Respondent’s Case

29. The Respondent did not provide the Tribunal with any documents or evidence, did not attend the hearing, and was not represented at the hearing.

The Tribunal’s Decision

30. The Tribunal does not find on a balance of probabilities that there has been a breach of covenant. The evidence that the Applicant presented to the Tribunal was not sufficient for the Tribunal to make such a finding. The Applicant simply stated that the police had said the Property was sublet without providing any further detail. The statement that the housing managers were told that a neighbour said that the Property was sublet was not supported by any evidence and was therefore no more than a mere assertion. This was not sufficient for the Tribunal to make a finding on a balance of probabilities.

31. Regarding the evidence of the Property being advertised on booking websites, the Tribunal does not find on a balance of probabilities that listing a Property on a website shows that the Property has actually been assigned, underlet or possession has been parted with. Further, the Tribunal does not accept the Applicant’s assertion that the evidence they produced shows that

the Respondent had allowed Henry Partridge to host the Property and that this, taken together with the review of the Property from July 2024, meant that the Property was assigned, underlet, charged or possession had been parted with. The Tribunal finds that it is possible for a statement and review to be posted on a website which are not authentic and, in the light of any corroborating evidence, the Tribunal does not find that simply advertising a Property on a website with a host and a review is sufficient to show on a balance of probabilities that there has been a breach of covenant.

32. It is clear from the Applicant's application form that, following a call from a neighbour on 2 July 2024, the Applicant's housing managers visited the Property on 3 July 2024. Further, the Applicant's application form stated that at that visit a male was at the Property and the housing officer was told that the Respondent would return to the Property in a few days. However, the Tribunal was not provided with any evidence from the Applicant's housing managers.

33. In view of the very limited evidence provided by the Applicant, the Tribunal is not satisfied on a balance of probabilities that the Respondent has breached a covenant in the Lease.

Name: Judge Bernadette MacQueen

Date: 8 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).