



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

Case reference : **LON/00AE/LBC/2014/0047**

Property : **3 Barons Court, Church Lane,
London, NW9 8AD**

Applicant : **Brickfield Properties Ltd**

Representative : **RadcliffesLeBrasseur, Solicitors**

Respondent : **Mr C I Obadiaru**

Representative : **In person**

Type of application : **Determination of an alleged breach
of covenant under s.168(4) of the
Commonhold & Leasehold Reform
Act 2002**

Tribunal members : **Judge I Mohabir**

**Date and venue of
hearing** : **5 August 2014
10 Alfred Place, London WC1E 7LR**

Date of decision : **5 August 2014**

DECISION

Introduction

1. This is an application made by the Applicant under section 168(4) of the Commonhold and Leasehold Reform Act 2002 (as amended) (“the Act”) for a determination that the Respondent has breached more than one of the covenants and/or conditions in his lease of the property known as 3 Barons Court, Church Lane, London, NW9 8AD (“the property”).
2. The Respondent is the present lessee of the property pursuant to a lease granted by St Leonards Properties Ltd to Jayvir Ratilal Patel and Gitaben Javyir Patel dated 31 July 1984 for a term of 99 years from September 1980 (“the lease”). The Applicant is the present lessor and the Respondent’s immediate landlord under a headlease.
3. By an application dated 19 June 2014, the Applicant made this application to the Tribunal seeking a determination that the Respondent had variously breached clauses 2(16) (i), (ii) and/or clauses 1, 2, and 12 of the Third Schedule of the lease. The relevant lease terms are set out in the application and need not be repeated here, as they are self-evident.
4. The alleged breaches are in essence that the Respondent has either sublet or parted with possession of the property and/or allowing it to be used for an immoral purpose and/or that various acts of nuisance have been committed against other occupiers by reason of the unlawful occupation.
5. The specific allegation relied upon by the Applicant are set out in the witness statements of the caretaker, Mr Egerton, dated 11 June 2014 and the Management Surveyor, Ms O’Reilly, dated 19 June 2014.
6. On 24 June 2014, the Tribunal issued Directions, which have been complied with by the Applicant. The Respondent has not complied with the Directions at all and has not participated in these proceedings

in any way. The evidence relied upon by the Applicant is, therefore, unchallenged.

Decision

7. As directed, the Tribunal's determination took place on 5 August 2014 without an oral hearing and was based solely on the documentary evidence filed and served by the Applicant.

8. Having carefully considered the witness statements relied upon by the Applicant and, in particular, those of Mr Egerton and Ms O'Reilly, the Tribunal found that, on balance, the evidence does not sufficiently prove that the Respondent has in fact parted with possession and, if so, on what basis. Taken at its highest, the evidence is that other persons may (jointly) occupy the premises but the basis on they may do so is unknown. In other words, until the degree of occupation can be ascertained, a clear finding that the Respondent has in fact permanently parted with possession and/or sublet the property in breach of clauses 2(16)(i) , (ii) and clause 1 of the Third Schedule cannot be safely made.

9. However, having regard to the evidence of Mr Egerton and Ms O'Reilly, the Tribunal does find that the various acts of nuisance complained of are made out. The Tribunal also finds that the Respondent has permitted the property to be used for an immoral purpose, namely a brothel from time to time. This is in breach of Clauses 2 and 12 of the Third Schedule of the lease. Accordingly, the application succeeds on this limited basis.

Judge I Mohabir

5 August 2014