

**IN THE LEASEHOLD VALUATION TRIBUNAL**

**LON/00AS/LBC/2010/0037**

**IN THE MATTER OF FFF, 342A WEST END ROAD, RUISLIP, MIDDLESEX,  
HA4 6RD**

**AND IN THE MATTER OF S.168(4) OF THE COMMONHOLD AND  
LEASEHOLD REFORM ACT 2002**

**BETWEEN:**

**CAMDEN COURT MANAGEMENT LIMITED**

**Applicant**

**-and-**

**TARIQ MAHMOOD**

**Respondent**

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**THE TRIBUNAL'S DECISION**

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***Introduction***

1. This is an application made by the Applicant under S.168(4) of the Commonhold and Leasehold Reform Act 2002 (as amended) ("the Act") for a determination that the Respondent had breached various covenants in his lease.
2. The Applicant is the head leaseholder and the intermediate landlord of the Respondent by virtue of a lease dated 17 June 1996 and made between The Bradford Property Trust Plc and Christopher Hill for a term of 99 years from 29 September 1995 ("the lease"). The Respondent is the present leaseholder.
3. On 10 September and 13 October 2009, the Applicant wrote to the Respondent complaining of various alleged breaches of his lease that

had taken place. No response was received from the Respondent then and he has also not responded to these proceedings. On 14 October 2009, the Applicant also wrote to the Respondent's mortgagee, Halifax Plc, enclosing copies of the correspondence sent to him in relation to the alleged breaches and repeated the allegations. It seems, that Halifax Plc also chose not to act on the matter. On 20 May 2010, the Applicant issued this application.

### **The Lease Terms**

5. The lease terms pleaded in the application which are alleged to have been variously breached are:

#### Clause 2(15)

*"No alteration shall be made in the construction height elevation or architectural appearance of the demised premises or any part thereof...without the licence in writing of the Lessors nor shall any opening or gateway except as are existing at the present date hereof be made in any of the boundary fences of the demised premises...without the consent in writing of the lessors...."*

#### Clause 2(3)

*"At all times during the said term well and substantially to repair uphold support maintain renew amend and cleanse the demised premises including the roof together with the drains...."*

#### Clause 2(5)

*"To keep*

*(a) The garden included in this demise at the rear in a good and tidy state of cultivation...."*

### **Decision**

6. The hearing in this matter took place on 22 July 2010. The Applicant was represented by Mr Norman from its in-house Legal Department. He was accompanied by Mr S Matthey, a Director of the Applicant company. The Respondent did not attend and was not represented and, as stated earlier, had not participated in these proceedings.
7. Mr Matthey had prepared a witness statement dated 16 June 2010 setting out the alleged breaches committed by the Respondent.

Exhibited to his statement were a number of photographs, numbered ABB 1(a)-(e), as physical evidence of the breaches complained of.

8. Mr Matthey told the Tribunal that he had personally attended the property on 15 June 2010 and had taken the photographs annexed to his statement. Apparently, the property is being sub-let by the Respondent and the tenants assured him that they would contact him to let him know that Mr Matthey wanted to speak to him. To this end, Mr Matthey left his contact details. He told the Tribunal that the Respondent had not contacted him up to the present time nor had his mortgagees.
9. Mr Matthey said that the Applicant had only been made aware of the various breaches committed by the Respondent as a result of complaints made by the neighbour at 344 West End Road. They had told him that the work had been carried out by the Respondent's builders about a year ago.
10. Although the Respondent had not participated or filed any evidence in these proceedings, the Tribunal was entitled to have regard to the evidence of Mr Matthey and, in particular, his witness statement which was supported with a statement of truth. Therefore, the Tribunal made the following findings:
  - (a) That the Respondent had breached clause 2(15) of the lease by removing the front boundary wall in part and converting the front garden into a hard standing forecourt.
  - (b) That the Respondent had breached clause 2(15) of the lease by demolishing the external chimney structure to the first floor level. It should be noted that the Tribunal does not make a finding that, in so doing, the Respondent had damaged a portion of the drainage pipe because there was no evidence that he had done so or that it was not a pre-existing condition.

- (c) That the Respondent had breached clause 2(3) of the lease by not repairing the first floor rear elevation either adequately and/or to a reasonable standard.
- (d) That the Respondent had breached clause 2(3) of the lease by failing to reinstate several roof tiles to the left rear pitch of the roof.
- (e) That the Respondent had breached clause 2(5) of the lease by failing to keep the demised garden in a good and tidy state of cultivation.

**Costs**

- 11. The Applicant also made an application under Schedule 12 paragraph 10 of the Act that the Respondent pay a contribution of £500 towards the costs it had incurred in bringing these proceedings. The Applicant submitted that the Respondent had acted unreasonably by not responding to its correspondence or participating in these proceedings.
- 12. The Tribunal did not regard the failure on the part of the Respondent to respond in any way in this matter as sufficiently unreasonable conduct to make an award of costs in favour of the Applicant. The threshold to make such a finding is a high one and it had not been met by the Respondent's conduct.

Dated the 22 day of July 2010

CHAIRMAN.....

Mr I Mohabir LLB (Hons)