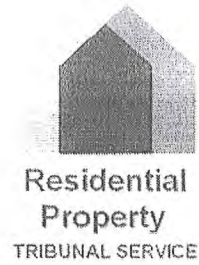


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**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
LEASEHOLD VALUATION TRIBUNAL for the
LONDON RENT ASSESSMENT PANEL
COMMONHOLD AND LEASEHOLD REFORM ACT 2002**

LON/00AE/LBC/2012/0008

Premises: Flat 12 Jefferson Lodge, 83A-85 Sudbury Avenue,
North Wembley, Middlesex, HA0 3BL

Applicant: Lisa Property Limited

Represented by:

Respondents: Anand Ramanial Chhaniara, and Rishi Chhaniara

Represented by:

Tribunal: Martin Rodger QC

Date of Hearing: 02/05/12

Date of Decision: 02/05/12

RESIDENTIAL PROPERTY TRIBUNAL SERVICE

LONDON RENT ASSESSMENT PANEL

DETERMINATION OF AN APPLICATION UNDER SECTION 168(4),
COMMONHOLD AND LEASEHOLD REFORM ACT 2002

FLAT 12 JEFFERSON LODGE, 83-85 SUDBURY AVENUE, NORTH
WEMBLEY, MIDDLESEX, HA0 3BL

Decision

Breaches have occurred of the covenants on the part of the Tenant at clause 2 and paragraphs (t) and (u)(ii) of the Third Schedule to the Lease of Flat 12 Jefferson Lodge, in that:

- (a) In breach of paragraph (t) of the Third Schedule to the Lease:
 - (i) no notice was given by the Tenant to the Applicant's solicitors of the assignment of the Lease to the Respondent within 21 days of 13 April 2007;
 - (ii) no notice was given by the Tenant to the Applicant's solicitors within 21 days of the grant of a charge over the Lease in favour of National Westminster Home Loans Ltd on 13 July 2007;
 - (iii) certified copies of the assignment and the charge were not produced by the Tenant to the Applicant's solicitors.

- (b) In breach of paragraph (u)(ii) of the Third Schedule to the Lease the Tenant failed to procure that the Respondents entered into a direct covenant with the Applicant to perform the covenants restrictions and obligations on the part of the Tenant contained in the Lease.

The application

1. By an application to the Tribunal dated 7 February 2012 the Applicant, Lisa Properties Ltd, seeks a determination pursuant to section 168(4), Commonhold and Leasehold Reform Act 2002 that breaches have occurred of certain covenants on the part of the tenant contained in the Lease of Flat 12 Jefferson Lodge, 83A-85 Sudbury Avenue, North Wembley ("the Flat").
2. The Applicants are the registered proprietors of a leasehold interest in the Flat.
3. The Respondent is also the registered proprietor of a leasehold interest in the Flat, in reversion to the interest of the Applicants.

4. The Tribunal gave directions for the conduct of the application on 14 February 2012, which required the Respondents to set out their grounds for opposing the application by 16 April. The Tribunal gave notice of the Application together with the directions to the Applicants on 16 February 2012.
5. Confirmation that the Respondents received the Tribunal's letter is contained in a letter from solicitors acting for them, GPT Law Practice, to the Applicant dated 6 March 2012.
6. Despite communicating directly with the Applicant, neither the Respondents nor their solicitors have communicated with the Tribunal or, it would appear, with the Applicant since 6 March 2012. The Respondents have not provided the Tribunal with any information in answer to the application.
7. The Applicant invited the Tribunal to determine the application without a hearing, which the Tribunal did on 2 May 2012. The facts found by the Tribunal and its reasons for reaching the decision recorded above now follow.

Relevant facts

8. The relevant facts appear from the witness statement and accompanying documents provided on behalf of the Applicant by its director Christopher John O'Dell dated 28 March 2012.
9. The Flat is a residential flat in a block of similar flats. On 18 April 1996 a lease of the Flat was granted for a term of 125 years at a rent of £50 a year. The Lease is registered at HM Land Registry under title number NGL831272.
10. The original parties to the Lease were Jetpark Properties Ltd, as Landlord, and John Weauer, as Tenant.
11. The Lease contained covenants on the part of the Tenant (an expression defined by clause (1)(1.2) as including the person for the time being entitled to the term created by the Lease). For the purpose of this application the relevant covenants are at clause 2 and paragraphs (t) and (u)(ii) of the Third Schedule to the Lease.
12. By paragraph (t) the Tenant covenanted to give notice to the Landlord's solicitor of certain transactions relating to or affecting the term created by the Lease, to produce a certified copy of relevant documents and to pay an administration fee of £30 plus VAT. Specifically the Tenant covenanted to give such notice to the Landlord's solicitors within 21 days of the assignment mortgage or charge of the Lease.
13. On 16 July 2004 the freehold interest in the building of which the Flat forms part was acquired by Jefferson Lodge Ltd, a company established by lessees of other flats in the building for that purpose. At that time the lessee of the Flat elected not to participate in the acquisition of the freehold.

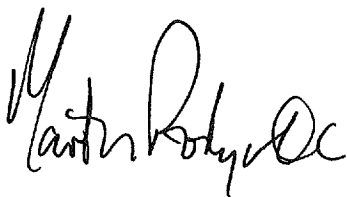
14. On the date of acquisition of the freehold by Jefferson Lodge Ltd it granted a new lease of the Flat to its predecessor in title, the Applicant, which was registered as proprietor of the new lease under title number NGL 851034 on 1 August 2005.
15. The new lease granted to the Applicant was for a term of 999 years and was subject to the Lease. In other words the Applicant became the Landlord under the Lease of the Flat; obligations owed to the Landlord under the Lease were owed to the Applicant, and sums payable to the Landlord were payable to the Applicant.
16. GEM Estates were appointed managing agents on behalf of the freeholders, Jefferson Lodge Ltd.
17. Urbanpoint Property Management Ltd were appointed managing agents on behalf of the Applicant.
18. On 13 April 2007 the Lease was assigned to the Respondents who were registered as proprietors on 14 September 2007. On 13 July 2007 the Respondents granted a charge over the Lease in favour of National Westminster Home Loans Ltd which was itself registered in the charges register of the Respondents' title on 14 September 2007.
19. It appears from the letter from GPT Law Practice to the Applicant dated 6 March 2012 that notice of assignment was given on behalf of the Respondents to GEM Estates. It is clear from that letter that the Respondents' solicitors did not at that time appreciate that the reversion to the Lease was vested in the Applicant, by virtue of its 999 year lease, and not in the freeholder, Jefferson Lodge Ltd, for whom GEM acted. It is also to be inferred from that letter that GEM itself was either unaware of the 999 year lease, or ignorant of its consequences, as it seems to have issued the Respondents with a share in the freeholder company.
20. GPT Law Practice's ignorance of the true position explains why the notice of assignment was given to the agents for the freeholder, rather than to Urbanpoint Property Management Ltd, the agents for the Applicant. It is not clear from the correspondence available to the Tribunal whether the Respondents also entered into a direct covenant with the freeholder, notionally in compliance with paragraph (u)(ii) of the Third Schedule to the Lease. I am satisfied, however, that no direct covenant was entered into by the Respondents with the Applicant. I am also satisfied that no registration fee was paid to the Applicant's solicitors as required by paragraph (t) of the Third Schedule.

Breaches

21. As I have already recorded, the effect of the grant of the 999 year lease to the Applicant was that it became the Landlord of the Flat for the purpose of the obligations contained in the Lease. On the grant of the lease of the reversionary estate the effect of section 141(1) of the Law of Property Act 1925 was that rent reserved by the Lease and the benefit of all covenants and

obligations on the lessees' part contained in it and having reference to the subject matter of the Lease, became enforceable by the new reversioner, which was the Applicant.

22. The person to whose solicitors notice of the assignment to the Respondents should have been given together with the registration fee, and with whom a direct covenant should have been entered into, was therefore the Applicant and not the freeholder.
23. It appears likely that the Respondents are blameless in this situation. Nonetheless in my judgment there have clearly been breaches of the covenants in the Lease because no notice was given by the Tenant to the Applicant's solicitors of the assignment of the Lease to the Respondent within 21 days of 13 April 2007; no notice was given by the Tenant to the Applicant's solicitors within 21 days of the grant of the charge over the Lease on 13 July 2007; certified copies of the assignment and the charge were not produced by the Tenant to the Applicant's solicitors; and because the Tenant failed to procure that the Respondents enter into a direct covenant with the Applicant to perform the covenants restrictions and obligations on the part of the Tenant contained in the Lease.
24. No reference is made in the application to the breach of paragraph (u)(ii) of the Third Schedule to the Lease, by the Respondent's omission to enter into a direct covenant with the Applicant. It is mentioned only in the witness statement of Mr O'Dell. The Tribunal is satisfied that it has sufficient information to enable the application to be determined in respect of that breach also, and that no prejudice is likely to be caused to any party by the Tribunal dispensing with strict compliance with the requirements of paragraph 7(a) of Schedule 2 to the LVT (Procedure) (England) Regulations 2003 to enable it to do so.
25. There ought to be no difficulty in these breaches being remedied by the appropriate notice now being given, copies of the relevant documents being supplied, a direct covenant being entered into and the fee paid.



Martin Rodger QC

2 May 2012