

**Residential
Property**
TRIBUNAL SERVICE

**LONDON RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: LON/OOAY/LBC/2008/0010

**APPLICATION UNDER SECTION 168(4) OF THE COMMONHOLD AND
LEASEHOLD REFORM ACT 2002 ('the Act')**

Applicant:	The Assets Recovery Agency (now the Serious Organised Crime Agency)
Respondents:	Mr and Mrs PA Steele
Premises:	Flats A & B, , 153 Dulwich Road, London SE24 ONG
Date of Application:	11 March, 2008
Date Pre-Trial Review:	13 March 2008
Date of Paper Determination:	8 April 2008
Appearances:	None (Paper Determination)
Leasehold Valuation Tribunal:	James Driscoll, LLM, LLB, Solicitor
Date of Tribunal's Decision: :	8 April 2008

DECISION

On considering the applications under Section 168(4) of the Act the Tribunal determines that the Respondents are in breach of their leases of the two flats they own at the subject premises.

THE APPLICATION

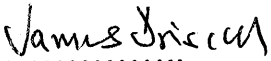
1. The Applicants are the owners of the freehold of the subject premises and the landlords under the leases of Flats A and B both of which appear to be held by the Respondents. The Applicants own the freehold by virtue of an order of the High Court made by consent on the 22 October 2007.
2. The subject premises consist of a self-contained end of terrace lockup shop on the ground floor and basement, with two further self-contained flats on the two upper floors. It appears that the Respondents hold both the flats on long leases.
3. The Applicants apply under Section 168(4) of the Act for a determination that the Respondents are in breach of their leases.
4. Directions were given on the 13 March 2008 and the Tribunal sent a copy of the application to the Respondents at 24A Barnmead Road, Beckenham, Kent, the address given on a Land Registry entry referred to in paragraph 5. A paper determination was sought by the Applicants because of concerns that urgent action is needed in relation to the premises as they appear to be dilapidated and abandoned.
5. Accordingly the Tribunal made a determination on the 8 April 2008 on the basis of the papers. These papers included a witness statement made by Katherine Jones, an employee of the Applicants dated 6 March 2008. Exhibited to this statement is a copy the consent order made in the High Court proceedings, Land Registry entries relating to the subject premises (as at the 26 April 2007), a copy of the Judgement made by the High Court on the 15 May

2006 and a copy of the leases, photographs of the subject premises and other documents.

6. In this statement Ms Jones states that the entire premises have been abandoned. She and others inspected the premises on the 31 October 2007 when she found extensive water ingress into the commercial parts from the two flats. She and others attended an address at 24A Barnead Road, Becekenham, Kent the address given as that of the Respondents in the Land Registry entries. There was no sign of the Respondents and enquires of another resident in adjoining premises suggested that the Respondents had not lived there for some 15 years.
7. On behalf of the Applicants it is alleged that the Respondents are in breach of their leases by effectively having abandoned both flats. On reading the leases the Tribunal notes that clauses 4 and 2 provide respectively for the leaseholder to keep the flats in good and tenable condition, to carpet them and to ensure that they do not do anything that could result in rendering void or voidable the insurance for the premises.
8. The Applicants claim that as a result of the flats being empty they have become uninhabitable and have resulted in water ingress into the shop premises. Photographic evidence showing the general state of the whole of the premises is exhibited to Ms Jones' statement. Additional evidence is to be found in a condition report prepared for the Applicants and also exhibited to the statement. This report was compiled following an inspection of the premises on 7 December 2007.
9. On the basis of this evidence, and in the absence of any evidence and submissions made by or on behalf of the Respondents, the Tribunal determines that the Applicants have made out their claim that the Respondents are in breach of their leases. The applications made under Section 168(4) of the Act are, therefore, established and the Tribunal makes this determination accordingly.
10. However, the Tribunal makes these determinations with considerable reservations. The Tribunal is far from convinced that the Applicants have made full enquires as to the whereabouts of the Respondents. The Land Registry entries are by now a year out of date. Ms Jones, states in paragraph 10 of her statement, that she did not obtain a response from the address given in the Registry's

entries as the address of the Respondents. But she does not say whether there was any evidence of the Respondents having resided there, let alone whether those premises appeared to be occupied or not by someone else of whom enquiries could have been made. Moreover, she does not identify either the name or the precise address of the 'resident' at a neighbouring property who told her and her colleagues that the Respondents moved some 15 years earlier (which the Tribunal notes is about the time the leases appear to have been granted). No efforts appear to have been made to see if the Respondents are registered as the owners of the flat at this address.

11. As the Tribunal anticipates that the Applicants may now pursue forfeiture claims against the Respondents, it recommends that they take careful account of the comments made in the preceding paragraph in taking any future steps to serve the Respondents with notices including notices of any Court proceedings.


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Professor James Driscoll

Date: 8 April 2008