



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

Case reference : LON/00AR/LBC/2015/0089

Property : 8 Derwent Way, Hornchurch, RM12
5HP

Applicant : London Borough of Havering

Representative : Judge & Priestley LLP

Respondent : Mr. G. A. Farey

Representative : In person

Type of application : Landlord's application under
S.168(4) Commonhold & Leasehold
Reform Act 2002 that a breach of
covenant has occurred.

Tribunal members : Aileen Hamilton-Farey

Date of decision : 18 November 2015.

DECISION

Decision of the tribunal

- (1) The tribunal determines on the basis of the application and accompanying documents that the respondent leaseholder is in breach of Clause 2(7) of their lease in that they have failed to supply a gas safety certification for their property, as required by additional regulations made by the applicant by letter of 31 May 2013.

Background:

- (2) On 31 May 2013 the applicant Local Authority wrote to all leaseholders notifying them of new regulations that were made under the provisions of Clause 2(7) of Schedule 1 in that they were to provide, on an annual basis, a copy of a gas safety certificate for all gas appliances in their property.
- (3) An application was received by the tribunal on 1 September 2015 for a determination that the respondent leaseholder were in breach of their lease.
- (4) The tribunal issued Directions on 15 September 2015 that required amongst other things that the respondent make a reply to the application.
- (5) No replies have been received from the respondent. However on 2 November the tribunal received an e-mail from the respondent enclosing a copy of a Certificate dated 21 May 2015.
- (6) The applicants have informed the tribunal that this is the first time they have seen the said certificate.
- (7) The tribunal received the bundle from the applicants as required by the Directions and this matter was dealt with on the papers provided by the parties.

Reasons for the Decision:

- (8) The applicants have reminded the respondent on several occasions of the requirements to provide a certificate. Although the respondent has now produced a certificate, the tribunal finds that, as at the date of the application, no such certificate had been sent to the applicants and that the respondent was when the application was made in breach of the regulations made under his lease.
- (9) The applicants' case is that such a certificate is necessary to ensure the safety for all residents in blocks and that where properties have been sold on a leasehold basis, such as in this instance, it is a reasonable regulation that owners provide evidence that their own appliances are safe.
- (10) The tribunal accepts that regulations were made in 2013 and that the leaseholders are therefore required on an annual basis to supply the certificate.

- (11) The leaseholder has failed to provide such a certificate before the application date and has therefore breached a condition or covenant in their lease.
- (12) On the basis of this evidence the landlord's application therefore succeeds.

Name: Aileen Hamilton-Farey **Date:** 18 November 2015