



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

Case reference : **AB/LON/00AG/HPO/2017/0013**

Property : **Studios 2 & 11 Platts Lane London
NW3 7NP**

Appellant : **Mrs Anna Trebino**

Representative : **Mr Nicholas Trebino**

Respondent : **London Borough of Camden**

Representative : **Mr Vincent Arnold (Operations
Manager); and
Ms Janice Juneman
(Environmental Health Officer)**

Type of application : **An appeal against Prohibition
Orders Schedule 2, paragraph 7(1)
Housing Act 2004**

Tribunal members : **Judge Pittaway
Mr Chris Gowman BSc MCIEH**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **17 May 2018**

DECISION

Decisions of the tribunal

- (1) The Prohibition Order dated 24 August 2017 served by the Council of the London Borough of Camden (“**Camden**”) in respect of Studio 2, 1 Platts Lane, London NW3 7NP (“**Studio 2**”) is confirmed.
- (2) The Prohibition Order dated 24 August 2017 served by Camden in respect of Studio 11, 1 Platts Lane, London NW3 7NP (“**Studio 11**”) is quashed.
- (3) The tribunal makes no order as to costs

The appeal

1. By an appeal dated 13 September 2017 received by the tribunal on 18 September 2017 the Appellant appealed against a Prohibition Order dated 24 August 2017 served by Camden in respect of Studio 2 and a second Prohibition Notice of the same date served by Camden in respect of Studio 11.
2. A hearing took place on 16 May 2018. Mr Oliver and Ms Juneman made submissions and gave evidence on behalf of the Respondent. The appellant was represented by her son, Mr Nicholas Trebino. He and Mrs Trebino both gave evidence and made submissions.

Inspection

3. The tribunal inspected Studios 2 and 11 before the hearing on 16 May.
4. At the appellant’s request the tribunal made its own internal measurements of both studios and found these to be in accordance with those made by Camden.
5. The tribunal noted the size and position of the beds in the respective studios; the configuration of the kitchen facilities and the access to the en suite bathrooms.
6. The tribunal also inspected the communal laundry room.

The Respondent’s Case

7. Both Prohibition Orders refer to the existence at the respective studios of a category 1 hazard, in terms of crowding and space and

both are suspended until the current occupier vacates the relevant studio.

8. In relation to Studio 11 Ms Juneman drew the tribunal's attention to the Hazard Scoring of 1,117.00 that she had calculated for that studio on the basis of an HHSRS assessment. She justified the score by reference to the HHSRS worked example by Bristol City Council for space and crowding for a bedsit measuring 9M², occupied by a single adult and being used as a bedroom/living room and kitchen, with access to a shared bathroom. In her submission her calculated score gives a rating of C for the studio, resulting in a Category 1 Hazard. Ms Juneman justified the scoring on the basis that there was little space available to store personal belongings, and insufficient space to carry out normal household activities in a safe manner. Where cooking is carried out in a bedroom there is increased likelihood of an accident. In her witness statement and when giving evidence Ms Juneman submitted that the existence of the sliding door into the en suite bathroom reduced the available wall areas against which furniture could be placed.
9. In relation to Studio 2 Ms Juneman gave the studio a score of 1,994.00, calculated by reference to the same worked example, giving the studio a rating of C+, also a Category 1 hazard. Again the scoring was justified on the lack of space to store belongings and for circulation; and the increased likelihood of accident where cooking takes place in the bedroom. She also made the same submission as the impact of a sliding door in the room.
10. Ms Juneman was not able to explain fully to the tribunal why the use of the same figures for both studios had resulted in differing Hazard Scores.
11. In the statement of reasons for the service of each Suspended Prohibition Order the suspension of each order is explained on the basis that otherwise the tenant might become homeless.
12. Both Orders state that there is no remedial action that might result in Camden revoking either Order and set out why no other course of action could be taken under Housing Act 2004. In relation to Studio 2 Ms Juneman argued that "the landlord had a history of non-compliance". On questioning by the tribunal it was evident that Studio 2 had not been relet since the Prohibition Order had been made in respect of it.
13. Ms Juneman accepted that both occupants had expressed themselves to be satisfied with their accommodation

The Appellant's case

14. On behalf of his mother Mr Trebino accepted that the rooms were small and did not dispute Camden's measurements but invited the tribunal to take a common sense approach, particularly in the context of the accepted housing shortage in the area. Each studio should be considered individually. Mrs Trebino made the point that each occupant was aware of the size of the room when they rented it. She also pointed out how long the occupant of studio 11 had been there. Mr Trebino also submitted that an increase in size of 1M2 was unlikely to make a significant difference to a room.
15. As for the hazard scores Mr Trebino's challenge was that the process of applying them was being adopted too rigidly by Camden.
16. He further submitted that accidents might be considered more likely to occur in smaller rooms, but accidents also happen in larger rooms.

Reasons for the tribunal's decision

17. Both parties had provided the tribunal with bundles and the tribunal have had regard to these, its inspection of the flats and the evidence and submissions made at the hearing in reaching its decision.
18. The tribunal accept that the reason that the Appellant did not pursue alterations to either studio was not because of expense (as suggested in Ms Juneman's witness statement) but rather that it was an issue of logistics and feasibility, as stated in Mr Trebino's e mail to Mr Arnold of 24 January 2018. This is consistent with the statement by Camden in the Schedule of each Order that "*no reasonable works can be carried out to mitigate the crowding and space hazard without reconfiguring the entire layout of the house in multiple occupation. This would involve removing walls and partitions adjacent to other lettings, all of which are currently occupied.*"

Studio 11

19. In relation to studio 11 while more crowded with furniture the tribunal accept that this is the larger studio than studio 2. They measured it as having an area (excluding the bathroom) of 10.5 M2.
20. The tribunal are not satisfied that Camden have come to the correct conclusion that there is a category 1 hazard in respect of this studio.

21. In particular the tribunal are not satisfied that Camden carried out the hazard assessment in respect of this studio properly. Ms Juneman's evidence was confused as to the assessed likelihood and she relied heavily on the Bristol worked example which related to a different size and type of premises; it was a bedsit of 9M² with no en suite bathroom and she did not know if it had use of a communal laundry. In the hazard scoring presented to the tribunal the likelihood for studio 11 had been reduced from 1 in 1470 to 1 in 52, the Bristol worked example for a smaller room without en suite facilities had shown a likelihood reduction to 1 in 100. Ms Juneman tried to justify the score of 52 to the tribunal but then changed her position and said that her score must have been 1 in 100. It is not unreasonable for the Council to base their hazard scoring on worked examples but they must be able to justify the score for the particular room in question and show accurate figures in their calculations.

Studio 2

22. The tribunal measured studio 2 as having an area (excluding the bathroom) of 8.75 M².
23. The tribunal are satisfied that in respect of this studio the hazard assessment was carried out properly and that a category 1 hazard does exist.
24. The tribunal accept that size is not the only determining factor in assessing crowding and space, but in the present case are satisfied that cooking in such a small area does give rise to the increased likelihood of an accident. There is very little space available to store belongings.
25. The tribunal accept the evidence of the appellant that she did not have a history of non-compliance and are satisfied that the studio had been relet before the Prohibition Order was made. However they accept that Camden have no alternative under the Housing Act 2004 other than to issue a suspended Prohibition Order, as indicated in the Statement of reasons for the service of each Order. Their rationale for not issuing a Hazard Awareness Notice (namely that the landlord has a history of non-compliance) is not accepted by the tribunal; however the tribunal accept that such a notice would not have been appropriate in the circumstances of the issue being the size of the room.

Costs

26. There is no decision as to costs as there were no submissions before the tribunal in relation to costs.

Name: Judge Pittaway

Date: 17 May 2018

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

The application for permission to appeal must arrive at the regional office within 28 days after the tribunal sends written reasons for the decision to the person making the application.

If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

The application for permission to appeal must identify the decision of the tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).