

Claim No. 5BN06196 IN THE BRIGHTON COUNTY COURT

BETWEEN:

ALFRED GEORGE OFFORD

Claimant

And

SUSSEX HEIGHTS (BRIGHTON)

Defendant

DEFENCE

- 1. Paragraph I of the Particulars of Claim is admitted. The Defendant** will rely upon the lease for its full terms and effect at any trial of this matter.
2. The Claimant is and was at all material times the lessee of Flat 9d, Sussex Heights, Brighton (hereinafter referred to as 'the flat').
3. The Defendant is and was, at all material times the management company of the block of flats known as Sussex Heights (Brighton) Limited (hereinafter referred to as 'the block'). The Defendant holds a lease over the block from the freeholder, Splendid Property Company Limited for this purpose.
4. The block consists of 116 flats all let on long leases in materially identical terms to that held by the Claimant. The leases are for a period of 125 years from the **29th** September 1966.
5. The Defendant employs Countrywide Property Management (hereinafter referred to as 'Countrywide') to manage the block.
6. The original windows in the block are galvanized steel windows and are single glazed. Many residents in the block have determined to improve their flats by fitting UPVC double glazed units, for which permission has been given by the Defendant and the cost of which has been borne by the individual residents.

7. The Defendant is unable to admit or deny the state of repair of the windows at the date of the Claimant's purchase of the property. The Claimant is required to prove the same. However the windows were fully repainted externally at the cost of the residents of the block in 2002. No complaints were received about the state of the windows before the purchase of the property by the Claimant, and it is further alleged that the Claimant admits that the windows were capable of repair and not in need of replacement.
8. The Claimant has provided no evidence to suggest that the windows required repair or replacement. The Defendant reserves the right to plead to the same in the event that such evidence should be provided.
9. On a date not known to the Defendant the Claimant had the windows to the flat replaced with double glazed UPVC windows.
10. Paragraph 3 of the Particulars of Claim is admitted.
11. In regard to paragraph 4 of the Particulars of Claim the Defendant responds as follows:
 - a) Clause I of the lease defines the demise as:
 - i) all walls enclosing the flat (but in the case of an external wall of the buildings only the interior face of such wall and in the case of any dividing wall between the flat and any other flat or flats in the Buildings only one half of such wall severed vertically)
 - ii) the ceilings and floors (including the floor structures of the flat other than the main beams thereof)
 - iii) the gas electrical water and sanitary apparatus now or hereafter installed in and belonging exclusively to the flat and all other Landlords fixtures and fittings therein
 - iv) all conduits pipes wires and cables carrying or conveying gas electricity water soil television-aerial-lead telephone ventilation and such like carried in the floor screeds ceilings walls or ducts incorporated with the flat and which are not used by or for any other flat whether in common with the flat hereby demised or otherwise (all of which said premises are hereinafter called "the demised premises").
 - b) Clause 3(3) of the lease states:

'From time to time and as often as occasion shall require during the said term at the lessee's own expense well and substantially to renew repair uphold support maintain cleanse amend and keep in good and substantial repair and condition the demised premises (damage by fire and other accidents against which the lessor has agreed to insure under the provisions of clause 5(vi) hereof only excepted) including without prejudice to the generality of the foregoing keeping in repair and replacing when necessary all glass in the windows and doors and window frame catches and fastenings and the [4.'

c) Clause 5(11) of the lease states:

*That the lessor will when and as necessary maintain repair cleanse repaint redecorate support and renew:
the roofs gutters pipes conduits and all the drains and other devices for conveying rain water from the buildings.
the main structure and external elevation of the buildings including in particular (but not by way of limitation) the foundations and exterior walls thereof.*

In the premises it is denied that the Defendant is responsible for the repair of the putty or the cracked glass in the windows as alleged in paragraph 2 of the Particulars of Claim or otherwise. The Defendant is not in breach of its repairing obligations.

2. It is admitted that the Defendant may be liable to repair and repaint rusty metalwork on the frames if the Claimant should be able to prove that the same was present on the window frames to his flat.
3. Further or alternatively, and without prejudice to the generality of the foregoing, in the event that it be found that the Defendant was under an obligation to repair the window frames to the flat, the Defendant will aver that the replacement of the existing steel, single glazed windows with double glazed UPVC units was an improvement and not a repair. As such the works did not fall within the Defendant's repairing obligations. In the premises the Claimant is not entitled to be indemnified for the cost of the same.
4. Further or in the further alternative the Defendant alleges that the cost of repainting the rusty metal work in the window frames was significantly less than the sums claimed by the Claimant.

5. In all the circumstances the works carried out by the Claimant were not necessary and were not reasonable in all the circumstances. The Claimant is not entitled to be indemnified for the same.

6. Paragraph 5 of the Particulars of Claim is admitted. On the 1st August 2005 Countrywide responded explaining that payment would not be forthcoming and that in the event that the Claimant wished to improve his flat through the replacement of the windows the cost of the same would be borne by him. Nothing further was received from the Claimant until the 6th November 2005.

7. Paragraph 6 of the Particulars of Claim is denied. No invoices, nor indeed quotations have been provided by the Claimant to the Defendant. The only document received from the Claimant was a document created by him on the 6th November 2005. Should supporting documentation be provided the Defendant reserves the right to plead to the same. The Defendant further notes that whilst the Claimant seeks to rely on the document he created he only seeks to claim £5,000.

8. In the premises the Claimant's claim is denied in its entirety.

Jonathan A Titmuss

STATEMENT OF TRUTH

The Defendant believes that the facts stated in this Defence are true.
I am duly authorised by _____ Defendant to sign this Statement.
Full name:
Signed:
Position or
Dated: