



# PUMP COURT

## CHAMBERS

### **Disrepair and housing conditions**

James Byrne



# Disrepair caselaw roundup

## **Plus some other interesting recent cases to be aware of...**

- Some County Court decisions on section 9A of the Landlord and Tenant Act 1985.
- A case on section 4 of the DPA 1972.
- Prescribed information on deposits, when should the information be provided to the tenant.
- A case on service of documents.
- How not to seek to suspend a possession order.

# Section 9A of LTA 1985

*“(1) In a lease to which this section applies of a dwelling in England (see section 9B), there is implied a covenant by the lessor that the dwelling—*

*(a) is fit for human habitation at the time the lease is granted or otherwise created or, if later, at the beginning of the term of the lease, and*

*(b) will remain fit for human habitation during the term of the lease.*

*[...]”*

# Section 9A LTA 1985

- Section 9A was inserted into the LTA 1985 by the Homes (Fitness for Human Habitation) Act 2018.
- The section came into force on 19 March 2019 for applicable tenancies created after this date.
- The section applies to all applicable existing tenancies on as of 20 March 2020 by virtue of section 9B(4) of LTA 1985.

## s.9A - Calculating the damages

- Similarly to section 11 of the Landlord and Tenant Act 1985, damages are usually calculated on a percentage of the diminution of rent.

See (Wallace v Manchester City Council (1998) 30 HLR 1111).

# s.9A - Four recent decisions

- Dezitter v Hammersmith and Fulham Homes (Central London County Court) 7 November 2023. 100% of rent for the period where the court considered the Property was unfit for human habitation.
- Mason v (1) Olivera and (2) Santana (County Court at Clerkenwell and Shoreditch) 15 December 2023. 100% of rent for the period the Property was unfit for human habitation.
- E v LBC Lambeth (Wandsworth County Court) 17 April 2024. 90% of rent.
- (1) Godagam (2) Edirisinghe v Hanson (Mayors and City of London County Court). 100% of rent.

# Section 4(4) DPA 1972

- Mann v Martin (2024) EW Misc 23 (CC).
- Should the defect have been discovered on a reasonable inspection of the property?
- Cases considered:
  - (a) Lafferty v Newark & Sherwood District Council (2016) EWHC 320.
  - (b) Rogerson v Bolsover District Council (2019) EWCA Civ 226 CA.

# Prescribed information

- **Siddeeq v Alaian** (Mayors and City of London County Court) 9 August 2024.
- Deposits that are caught by section 213 to 215 of the Housing Act 2004.
- Provide the prescribed information for deposits AFTER the deposit has been protected.



# Service of documents

- D'Aubigny v Khan & Anor (Central London County Court) 1 December 2023.
- Does section 7 of the Interpretation Act 1978 apply to documents served in connection with a tenancy?
- The documents considered in the case:
  - (a) The gas safety record;
  - (b) The energy performance certificate;
  - (c) The document “*How to rent, the checklist for renting in England*”.

# The importance of procedure

- Morgan v Business Mortgage Finance 5 Plc (2024) EWCH 309 (KB).
- An illustration of unsuccessful satellite litigation seeking to suspend a possession order in the County Court.