

COMPLAINANT: T S

**ACCOMMODATION PROVIDER: THE STAY CLUB (LONDON) LIMITED
(HALLMARK ESTATES LTD)**

PROPERTY: STUDIO 101, THE STAY CLUB (CAMDEN) NW1 8AJ

INTRODUCTION

I have read all the relevant documents relating to this complaint, including the complainant's account, the letting contract, exchanges of emails and letters to the accommodation provider from the complainant's German lawyers, and the accommodation provider's responses. I do not intend to refer in detail to everything I have read, but assure the parties that I have considered carefully everything that has been written.

I need to make clear at the outset that it is not the function of the Tribunal to resolve contractual disputes or come to any conclusion about compensation or other payments. The Tribunal can only determine whether there has been a breach of the Code of Standards. If it finds that there has been non-compliance it can make recommendations.

THE DISPUTE

The complainant states that the room that he was allocated did not match the description which had been given before he agreed to take the room: *Before entering my allocated room I had not been informed about the fact that this was an accessible room. As a result I signed the contract for a 'Single Studio' which I booked 3 months in advance and was then allocated an accessible room which did not include all the facilities listed on the 'Stay Club' website. (Please see image below)*

The room did not include a 'Study Desk and Chair' which are both an absolute essential for a full time student.

It was not that he was objecting to the fact that it was a room that was fully accessible to people with disabilities, but rather that being so it did not provide the accommodation and facilities which had been advertised on the website.

This complaint was repeated in letters from Lorenz Seidler Gossel, to which The Stay Club London responded. The Stay Club London rejected everything put forward by or on behalf of the complainant. The parties did not reach any agreement. TS made a formal complaint to the Code Administrator. He made contact with Stay Club, and in an

email to them wrote: *I assume you'll be sending me a more detailed response to the allegations separately.*

Stay Club replied almost immediately to that by emailing: *Not really. I have replied and this case is closed as far as I am concerned. If it breaches ANUK rules, we are ready to abandon the membership. It is important to say that this is not a genuine complaint.*

On the basis of that response, and after considering all the available evidence, and with the concurrence of the Vice-Chairs, I made the following, interim decision:

Let me make very clear that the Tribunal, through its Chair and Vice-Chairs, will decide whether this is a genuine complaint. Following consultation with the Vice-chairs we have come to the conclusion that it was.

Had Stay Club responded to the complaint in a less defensive way, and given that alternative accommodation had been offered, I might well have recommended that they ensure in future that their website is accurate, and left it at that.

Everything about the way the accommodation provider has dealt with this dispute confirms the attitude expressed in their last comment: I have replied and this case is closed as far as I am concerned. If it breaches ANUK rules, we are ready to abandon the membership.

Given their obvious lack of commitment to the aim of the Code of Standards and their contempt for its provisions relating to complaints, I would recommend that they be removed from the Code of Standards. Before implementing that, however, fairness requires that they should be given an opportunity of putting forward any representations they may wish to make as to why they should not be removed.

There was a response to this from the Finance and Development Director of Hallmark Property Group, who own Stayclub. He accepted that the previous response had been inadequate and unsatisfactory and without the agreement of the directors. He asked if it was possible to revisit the complaint in order to respond properly and deal with the

issues. On the grounds of fairness, and given the Director's obvious willingness to cooperate, I agreed to this. We received a full and detailed response, which I shall refer to after setting out the relevant provisions of the Code of Standards.

The Director's response was sent to the complainant who made a number of comments, to which I shall also return.

THE RELEVANT PROVISIONS OF THE CODE

Managers will ensure that

3.0 All property details are reported accurately without misrepresentation to prospective tenants. This will include details provided in brochures and websites.

I would also like to refer to the following provision and to a general statement in the preamble to the Code

Managers will ensure that:

9.0 Within four weeks of receipt of any written complaint from a tenant (or their representative) they rectify any breach of this Code of Standards or, where any allegations are contested, enter into correspondence with the tenants or their representative; (Appendix 2 describes the complaint resolution procedure

9.1 Where such a breach is contested, [...] they recognise the authority of a Tribunal which will determine whether or not a breach of the code has occurred and make recommendations accordingly. In the event that such recommendations are not followed by the manager then they will be deemed to be in breach of the Code and this fact will be made public to prospective tenants. The Tribunal will have the authority to exclude any owner from the Code.

Compliance with the Code will ensure that:

- *Both managers and tenants enjoy the benefit of good standards of housing management and practice.*
- *Misunderstandings and disputes are reduced.*
- *Where problems do occur they are promptly resolved.*

DISCUSSION

In view of the detailed response to the complaint which we have now received I am withdrawing my previous decision and the recommendation that Stayclub be removed from the Code.

Both Mr Bacon's detailed response and the complainant's comments on it move from the only issue in the complaint which the Tribunal can deal with, that is, whether there was a breach of the Code of Standards, to the contractual dispute. I am sorry that it is not resolved, but I cannot help to resolve it.

At the risk of repetition, I need to make very clear that the Tribunal is only concerned with whether there has been a breach of the Code of Standards, in this case, 3.0, that is, misrepresentation in the description. I am not concerned with the complainant's subsequent behaviour – the question I have to decided is this: was the room he was offered materially different from the one that was described to him on the website? I am not even going to consider the other issues, which have been taken up by lawyers and will need to be resolved by litigation, if necessary; by settlement if the parties can bring themselves to negotiate without rancour and in order to bring this dispute to a swift conclusion.

The ongoing contractual dispute or issues of repayment or compensation are none of my business. Near the end of his email, Mr Bacon writes: *...I would be pleased to reach out to [TS] or his law firm and without prejudice I will settle the matter given the situation has gone too far and should have been resolved at an early stage.* I find that heartening

and I hope that some common ground can be found – BUT, I emphasise again that such a matter is nothing to do with the Tribunal.

Mr Bacon has been thorough in his investigation and frank and open in acknowledging where there might have been some substance in the complaint. I do not need to analyse what he has written in detail but I am going to quote from his conclusions:

In paragraph 2 he writes: To date we have not experienced issues with the rooms and this complaint is the first of substance received since March 2013. Nevertheless, with hindsight it is possibly surprising that problems of this nature have not occurred before in respect of the accessible rooms but this may be a reflection of the fact that The Stay Club provide a comprehensive level of service at each site and it is normally possible to address issues at an early stage given that we operate with 24/7 reception and onsite presence of managers and highly trained staff.

From paragraph 6: In the matter of [TS] it seems that he was not taken to his room first of all to complete a check-in inventory and the desk for the room was not present at the time he checked in. Having investigated what took place I have encountered inconsistencies with the recollection of staff involved. However, on balance I believe [TS] must have checked in prior to seeing Studio No.101 and from my investigations the desk was oversized for the space designed for it and was not in the room at the time he checked in.

The response then goes into what happened subsequently, but in paragraph 10 it states: *However, the main question is whether there was a misrepresentation and how were the concerns that [TS] raised dealt with at the time. Taking the events into account, we did not complete the check-in in accordance with our policy completing an inventory check of the studio first. In addition, the desk was not in the room.*

From paragraph 11: Nevertheless, we have found serious shortcomings in the way that the matter has been dealt with and therefore we have reviewed our check in procedures

and we will update our website to clarify that the size of the desk in studios may vary. Should this be acceptable to the Chair of the Complaints Tribunal, I purpose to liaise with you on the changes to the check-in procedures and clarifications within our website so that these are confirm with you to your satisfaction. [The email is being sent to the Code Administrator.]

This is completely different from the previous response and I welcome it as a sign of a firm commitment to the Code of Standards and the principles it embodies.

Mr Bacon has fairly and frankly acknowledged that there was a problem. I think there was some muddle here; and staff did try to sort it out by offering another room. In my view there was a breach of 3.0 of the Code of Standards.

The initial response to the complaint was clearly inadequate and has been acknowledged as such by Mr Bacon. I find that the initial dismissive approach was a breach of 9.1 of the Code of Standards.

The complaint is upheld on both grounds.

Despite Mr Bacon's full response, the Tribunal remain disappointed that the complainant has had to go through this extensive complaints procedure before being taken seriously. Some of the issues in his complaint concern matters that are outside the remit of the code – but it did seem to us **that only by escalating the situation thus far were we able to gain** any purposeful response to the complaint. That is not acceptable and is certainly not within the spirit of the Code of Standards.

The Code is there to ensure good standards are being met, and we have to be certain that any assurances about the future will be carried through.

Mr Bacon did promise to liaise with the Code Administrator on the proposed changes to

the website. I also take the view that his response does show a commitment on his part to the principles of the Code of Standards.

The Tribunal did regret, however, that it was only at Director level that this complaint was taken seriously. Our decision to remove Stay Club from the Code seemed to be necessary to obtain a proper response, and therefore we recommend that a warning letter be sent, just to emphasis the points made in this decision.

The decision will be published on the website.

There should be a compliance check to make sure the companys stated aims are actually being adhered to at a local level.

JOHN MARTIN
CHAIR OF THE COMPLAINTS TRIBUNAL

20th February 2015