



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

Case Reference : **MAN/OOBR/LDC/2020/0013**

Property : **64 Worsley Road, Eccles, Manchester M30 8PD**

Applicant : **ForHousing Limited**
Representative : **Adrian Phillips**

Respondent : **Ms Corinne Berry**

Type of Application : **Landlord & Tenant Act 1985 – Section 20ZA**

Tribunal Members : **Laurence Bennett (Tribunal Judge)**
Niall Walsh (Regional Valuer)

Date of determination : **24 March 2020**

Date of Decision : **27 March 2020**

DECISION

Application

1. ForHousing Limited applies to the Tribunal under Section 20ZA of Landlord and Tenant Act 1985 (the Act) for dispensation from the consultation requirements of Section 20 of the Act and the Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987) in respect of work to the roof of the Property.
2. The Respondent is the Residential Leaseholder of the first floor flat at the Property.

Grounds and Submissions

3. The application was received by the Tribunal on 3 March 2020.
4. The Applicant and Respondent are the Successors to the Lessor and Lessee under a lease of the first floor flat at the Property made 14 April 1997 between The Council of the City of Salford (1), Kathleen Ella Dawson (2) for a term of 125 years.
5. On 5 March 2020 Deputy Regional Judge Holbrook made directions which provided that in the absence of a request for a hearing the application would be determined upon the parties' written submissions.
6. The Property is a purpose built block comprising 2 flats.
7. The Applicant stated in the application form that the work is required because the roof is leaking and is beyond repair. The leak is causing internal damage and is affecting the electrical installation.
8. Further information provides details of the work required and mentions the history of the previously Social Rented Property sold under the Right to Buy legislation. 2 quotes have been obtained and the lowest quote accepted pending this application. The Applicant has been in contact with the Respondent and has notified the cost. The Applicant states that the Respondent "Is eager to get the work done as soon as possible." Full consultation under Section 20 would involve delay causing further damage.
9. The Applicant has provided copy Lease and office copy Land Register.
10. The Tribunal did not receive submissions from the Respondent nor a request for an oral hearing.
11. The Tribunal convened without the parties to make its determination on 24 March 2020.

Law

12. Section 18 of the Act defines "service charge" and "relevant costs".
13. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
14. Section 20 of the Act states:-

“Limitation of service charges: consultation requirements

Where this Section applies to any qualifying works..... the relevant contributions of tenants are limited..... Unless the consultation requirements have either:-

- a. complied with in relation to the works or
- b. dispensed with in relation to the works by a leasehold valuation tribunal.

This Section applies to qualifying works, if relevant costs incurred on carrying out the works exceed an appropriate amount”.

- 15. “The appropriate amount” is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 (the Regulations) as “..... an amount which results in the relevant contribution of any tenant being more than £250.00.”
- 16. Section 20ZA(1) of the Act states:-
"Where an application is made to a Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements."

Tribunal’s Conclusions with Reasons

- 17. We considered the written evidence accompanying the application.

Our conclusions are:-
- 18. It is not necessary for us to consider at this stage the extent of the service charges that would result from the works payable under the terms of the Respondent’s leases. If and when such is demanded and if disputed, it may properly be the subject of a future application to the Tribunal.
- 19. We accept from the details of the damage suffered, work proposed and the obvious consequences of further water ingress that it is necessary for repairs/replacement to commence without delay. The lack of repair has potential to impact on the health, safety, utility and comfort of occupiers and visitors to the flats at the Property.
- 20. Although no formal consultation has taken place nor do we have the exact information given to the Respondent, we have not identified a specific prejudice to them in the circumstances. Dispensation from consultation requirements does not imply that the resulting service charge is reasonable.
- 21. We conclude it reasonable in accordance with Section 20ZA(1) of the Act to dispense with the consultation requirements, specified in Section 20 and contained in Service Charges (Consultation Requirements)(England) Regulations 2003 (SI 2003/1987).
- 22. Nothing in this determination or order shall preclude consideration of whether the Applicant may recover by way of service charge from the Respondents any or all of the cost of the work undertaken or the costs of this application should a reference be received under Section 27A of the Landlord and Tenant Act 1985.

Order

23. The Applicant is dispensed from complying with the consultation requirements in respect of the work specified in the application.

L J Bennett
Tribunal Judge
24 March 2020