



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

Case reference : **LON/00AW/LDC/2020/0049**

HMCTS code (paper, video, audio) : **P: PAPERREMOTE**

Property : **242/244 Fulham Road, London, SW10 9NA**

Applicant : **Mrs R Hallatt**

Representative : **Pearce & Co**

Respondent : **(1) Mr C Astor (flat 242A)
(2) Ms Maria Bellhouse and Mr. James Curry (flat 244A)**

Representative : **N/A**

Type of application : **For the dispensation of consultation – section 20ZA of the Landlord and Tenant Act 1985**

Tribunal members : **Judge Tagliavini
Mr. T Sennett MA FCIEH
Mrs L West MBA**

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

Date of decision : **22 September 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has not objected to by the parties. The form of remote hearing was P:PAPERREMOTE. A face-to-face hearing was not held because it was not practicable and a request for an oral hearing had not been made. The tribunal determined that all issues could be determined on paper. The documents that the tribunal was referred to were in a bundle of 77 pages, the contents of which the tribunal has noted. The order made is described below.

Decisions of the tribunal

- (i) The tribunal refuses the application for dispensation under section 20ZA of the Landlord and Tenant Act 1985.**
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The application

1. The Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) in respect of works carried out between 11 October 2019 to 27 February 2020 in order to remedy water ingress to the subject building.

The hearing

2. As a request for an oral hearing had not been made by either party, the tribunal determined the application on the papers.

The background

3. The property which is the subject of this application comprises two maisonette flats on the first and second floors over commercial premises used as a dentist surgery on the ground and basement floors.
4. The Applicant is the freeholder of the subject property and the respondents are the long lessees under leases dated 18 July 1975 (surrendered and regranted on 5 April 2011 in respect of flat 242A and a lease dated 22 May 1975 in respect of flat 244A, which require the landlord to maintain the structure of the building and services that are shared by the flats and the commercial premises. However, the residential leases make no express provision for the payments of charges relating to the maintenance of the building but the proportions payable are decided by the applicant’s surveyor. Historically, such charges have been divided between the commercial premises (50%) and each residential unit contributing 25% to the total.

The issues

5. The only issue before the tribunal is whether dispensation from consultation should be granted retrospectively for the works said to total £5,896.70 (including the £100 application fee paid to the tribunal).
6. In support of the application, the applicant provided the tribunal with a statement of Steven Hall of Pearce & Co (managing agents) dated 12/08/2020 and included a Schedule of the works carried out and their costs. The statement was accompanied by invoices for the works that are the subject matter of this application.
7. It was said by Mr. Hall that the works were carried out on a piecemeal basis as works of maintenance in order to try and identify the source of the water leak before having to embark upon a more costly programme of works. Mr. Hall told the tribunal that investigations and efforts to identify and prevent the water leak from continuing had been carried out between October 2019 and February 2020. A further repair (not identified) had been carried out which had successfully resolved the problem and the planned section 20 consultation programme of proposed works was no longer required.
8. The tribunal did not receive any objection or correspondence from the respondents although it was made aware that Mr. C Astor has apparently assigned his interest.

The tribunal's decision

9. The tribunal refuses the application for dispensation under section 20ZA of the Landlord and Tenant Act 1985.

Reasons for the tribunal's decision

10. The tribunal is of the view that the items of individual work could have more properly been billed to the leaseholders, where the lease allows individually as each was carried out and the tribunal is unclear why the applicant now seeks to amalgamate them as one lump sum. Further, the tribunal does not regard these works to have been considered to have been urgent given the length of time taken by the applicant to investigate and remedy the source of the water leak. In addition, the tribunal finds it to be less than helpful not to have been informed as to which localised repair finally resolved the problem with water ingress or that it was an item that fell within the terms of the respondent's lease.

Name: Judge Tagliavini

Date: 22 September 2020

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).