



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

Case reference : **LON/00AW/LDC/2022/0207.**

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

Property : **28 Draycott Place, London SW3 2SB.**

Applicant : **Ellis & Sons Amalgamated Properties Ltd.**

Representative : **Shannaleigh Batson.
Dexters Block Management.**

Respondent : **Various leaseholders as per the application.**

Representative : **In person.**

Type of application : **Application under S.20ZA Landlord & Tenant Act 1985 for dispensation from the requirements to consult leaseholders in relation to qualifying works.**

Tribunal members : **Tribunal Judge Aileen Hamilton-Farey.**

Venue : **Remote.**

Date of decision : **19 December 2022**

DECISION

Covid-19 pandemic: description of hearing.

This has been a remote determination on the papers, which has not been objected to by the parties. A face-to-face hearing was not held because a paper determination was not objected to, and all of the matters could be determined without a hearing. The tribunal was provided with a bundle of documents that included the application form, directions and statement of case. No responses were received from the respondent leaseholders.

Decisions of the tribunal

- (1) The tribunal determines that dispensation from the requirements to consult under S.20 of the Landlord and Tenant Act 1985 should be granted in relation to the works described below.
- (2) The tribunal does not determine the reasonableness or payability of the amount which the applicant says the works cost £3,954.00, inclusive of VAT, and the respondents rights under S.27A of the Landlord and Tenant Act 1985 are maintained.

The application

1. The Applicant seeks dispensation from the requirements to consult leaseholders pursuant to s.20ZA of the Landlord and Tenant Act 1985 in relation to the qualifying works described below.

The background

2. The property which is the subject of this application is a small block containing six flats.
3. The Applicant is the freeholder of the property and each of the respondents occupies their flat under the terms of a long lease which requires the landlord to provide services and the tenant to contribute towards their costs by way of a variable service charge.
4. The applicant states that, following an inspection of the electrical supply installation at the property, it was found that bare wires were present and the main distribution board required replacing, together with reconnection of the wiring. It was asserted by the applicant, that there was a fire risk if the works were not carried out urgently, and that it was not possible for any of the consultation requirements of S.20 of the Landlord and Tenant Act 1985 to be completed.
5. Directions were issued by the tribunal on 7 November 2022. These required the respondent to serve those directions on each of the

respondent leaseholders, and for those leaseholders who objected to the application to make a response to the applicant and tribunal by 28 November 2022. The applicant provided confirmation to the tribunal that each of the respondents had been sent a copy of the directions and advised to contact the tribunal if they objected to the application.

6. No responses have been received from any of the respondents.

The issues

7. The issue before the tribunal is whether dispensation from the requirement to consult the respondent leaseholders in relation to the works should be granted. The tribunal is not concerned with the cost of the works, or whether the amount identified by the applicant in the application is reasonable or payable.
8. Before considering whether dispensation should be granted the tribunal must determine what prejudice, if any, would be suffered by the respondents if dispensation was given as identified in the Supreme Court decision of *Daejan v Benson and Ors [2013] UKSC 14 & [2013] UKSC 54*. In this instance none of the respondents have identified any prejudice that they might suffer.

Reasons for the decision:

9. The tribunal is satisfied that the works were urgently required. There was a fire safety risk given the poor wiring in the property, and the tribunal is satisfied that the applicant was not in a position, given the risks, to undertake the consultation exercise.
10. In the circumstances where respondent leaseholders do not object to the application as provided in the directions, the tribunal is entitled to take the view that the respondents agree. In the circumstances, the tribunal grants dispensation from the requirements to consult in relation to the electrical works carried out on behalf of the applicants.

Name: Aileen Hamilton-Farey

Date: 19 December 2022.

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).