



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

Case reference : **LON/00AG/LDC/2023/0049**

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

Property : **Basement Flat, 146 Belsize Road,
London NW6 4BJ**

Applicant : **Mr Anthony Pike**

Representative : **N/A**

Respondent : **Mr Mchul Devani**

Representative : **N/A**

Type of application : **Dispensation from consultation –
s.20ZA of the Landlord and Tenant Act
1985**

Tribunal members : **Judge Tagliavini**

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

Date of decision : **11 May 2023**

DECISION

Decisions of the tribunal

- (1.) The tribunal grants the applicant the dispensation sought pursuant to s.20ZA of the Landlord and Tenant Act 1985 in respect of the works required to rectify the falling masonry and the exterior works required at 146 Belsize Park Road, London NW6 4BJ ('the Property') and have been carried out in the sum of £4,400.33.

The application

1. The Applicant/landlord has applied for dispensation from the statutory consultation requirements pursuant to s.20 of the Landlord and Tenant Act 1985, in respect of works described as being to "repair and make safe broken and fallen masonry, to paint and make weatherproof front and rear of building including window frames, to repair and make weathertight sections of the roof.
2. The Property comprises a four storey mid-terrace house built circa 1885. It has a flat on the basement floor which is held on a long lease by the respondent with the ground, first and second floors occupied by the applicant landlord.

The applicant's case

2. The Applicant states that he obtained three estimates, which were sent to the Respondent. The Applicant states that there was an element of urgency to the works, as they were necessary to prevent water ingress into the building, and that masonry was falling from the upper parts of the building, endangering the occupants of the basement flat (the leasehold of which is owned by the Respondent.
3. In support of the application the applicant provided the tribunal with the three estimates and the invoice from his chosen contractor who had quoted the lowest amount. Subsequently, works were carried out by M Stambrow, Building Contractors and MJ Kloss, Painters and Decorators in the total sum of £4,400.33.

The respondent's case

4. In a written statement (undated) the respondent complained he had short notice of the application and had not been provided with an opportunity to respond. The respondent complained he was not able to obtain his own quote for works before they were carried out by the applicant and challenged the urgency of the works and their cost. The respondent also stated he could have got the works done at a much cheaper price as he has his own maintenance team who would have done the works at cost price or at the very least could have obtained a couple of more quotes.

The hearing

5. Neither party requested an oral hearing and therefor the application was provided on the documents provided by the parties.

The tribunal's decision and reasons

6. The tribunal accepts that works to remedy the falling masonry were urgent and that the remaining works of weatherproofing the exterior of the Property also contained an element of urgency. The tribunal considered the respondent had failed to show he had suffered any prejudice by the consultation procedure not having been followed. The tribunal finds the respondent was notified of the works before they commenced and accepts, he was not provided with an opportunity to obtain his own quotes.
7. However, the tribunal finds the respondent has not sought to provide the tribunal with any evidence that challenges the urgent nature of the works or their costs. The tribunal finds the respondent's substantive objection to the works is that of cost. However, the jurisdiction of the tribunal in this application is not to determine the reasonableness of the costs of the works and that can be made in a different application. The tribunal finds the respondent has failed to identify any substantive prejudice caused by the lack of consultation; *Daejan Investments Limited v Benson and others* [2013] UKSC. Therefore, the tribunal grants the dispensation sought by the applicant.

Name: Judge Tagliavini

Date: 11 May 2023

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).