



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

Case reference : **LON/00AG/LSC/2023/0042**

Property : **Gabrielle Court, 1 Lancaster Grove, London
NW3 4EU**

Applicant : **Gabrielle Court Limited**

Representative : **Ms Polly Dyer, Senior Property Manager**

Respondents : **(1)The leaseholders in the spreadsheet
attached to the application**
(2) Mr Daniel Kenig (leaseholder of Flat 11)

Representative : **(1) N/A**
(2) I/P

Type of application : **Application for dispensation to consult –
section 20ZA of the Landlord and Tenant Act
1985**

Tribunal : **Judge Tagliavini**
Mr O Dowty MRICS
Judge Tueje

Date of decision : **2 August 2023**

DECISION

The tribunal's summary decision

- (1.) The tribunal grants dispensation pursuant to s.20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') in respect of urgent works of repair to the heating and hot water system at Gabrielle Court, 1 Lancaster Grove, NWT3 4EU and have been carried out by Bonus Eventus Maintenance Limited at a cost of £9,330 including VAT.
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The application

1. This is an application made pursuant to section 20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') seeking dispensation for the consultation requirements in respect of the works required to remedy the lack of heating and hot water due to a breakdown of the boiler at the subject property situate at **Gabrielle Court, 1 Lancaster Grove, London NW3 4EU ('the Property')**.

Background

2. The applicant landlord has applied for dispensation from the statutory consultation required by s.20 of the Landlord and Tenant Act 1985. The applicant states that both of the communal boilers providing hot water and heating for the purpose built block of 16 flats failed in early 2023. Dispensation is sought in respect of works to repair or replace the boilers. The managing agents were, at the time that the application was made, in the process of seeking quotations and would issue section 20 Notices of Intention to do works, but assert that the works are urgently required as the residents are frequently without heating and hot water in some of the coldest months of the year, although the manufacturer of the boilers has put in place a temporary repair to one boiler, which is currently serving the block. The boiler requires regular resetting by the tenants, and it is not known how long the temporary repair will continue to be effective.
3. The applicant has confirmed in a letter to the tribunal dated 3 April 2023, that all leaseholders were informed of this application as required and the application was displayed in communal parts of the building. The applicant and the tribunal received one objection to the application from Mr Kenig an absentee leaseholder and confirmation that 14 other leaseholders had approved the need for urgent works to be carried out without full consultation having been carried out.
4. Subsequently, it was confirmed at the hearing that a Notice of Estimates dated 3 March 2023 had also been sent to the leaseholders including Mr Kenig by post and email.

The hearing

5. The application was determined by the tribunal at a video hearing. Ms Polly Dyer appeared on behalf of the applicant and Mr Kenig represented himself. Both gave oral evidence to the tribunal as well as relying upon their documentary evidence and written statement. In making its decision the tribunal took into account the information provided by the applicant by way of a bundle comprising 188 pages containing both parties' documents.

The tribunal's decision

6. The tribunal grants dispensation pursuant to s.20ZA of the Landlord and Tenant Act 1985 ('the 1985 Act') in respect of the works of repair to the heating and hot water system at the subject Property carried out by Bonus Eventus Maintenance Limited in the sum of £9,330 including VAT.

The tribunal's reasons.

7. The tribunal has had regard to the nature of the works and finds the works were urgently required. The tribunal does not accept Mr Kenig's contention that the works were not urgent and finds his assertions on this point to be less than convincing, as he neither lives at the Property and accepted his sub-tenant had contacted him to notify him of the issue. Further, the tribunal finds that Mr Kenig was aware of the applicant's intention to carry out urgent works despite his assertion he had not received the Notice of Intention dated 3 February 2023 or the Notice of Estimates dated 3 March 2023 which was said to have been emailed to him.
8. The tribunal finds Mr Kenig was given an opportunity to put forward a contractor of his choice and nominated Lee Mason of Lee Mason Plumbing and asserted in an email to the applicant that Mr Mason had successfully replaced a boiler in a block of flats and came highly recommended. However, when Mr Mason who when contacted by the applicant as part of their 'due diligence' process, Mr Mason informed the applicant he was not Gas Safe registered to replace commercial boilers and declined to provide a quotation for the necessary works.
9. The tribunal finds that Mr Kenig's assertion that he should have been provided with a specification of works and allowed an opportunity to find an experienced surveyor to inspect and draw up a detailed report before any works were carried out, is not well founded.
10. The tribunal finds Mr Kenig was unable to identify any real prejudice caused as a lack of consultation and that his objection to the application for dispensation centred on the cost of the works and the extent of the works, neither of which are issues within the scope of this application but may be challenged by any lessee on the making of the appropriate application to the tribunal.

11. The tribunal finds Mr Kenig has failed to show he has been prejudiced by the lack of consultation pursuant to section 20 of the 1985 Act in respect of the works for which the applicant seeks dispensation. Therefore, in the circumstances the tribunal considers it reasonable and proportionate to grant the application sought; *Daejan Investments Limited v Benson and others* [2013] UKSC 14.

Name: Judge Tagliavini

Date: 2 August 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).