



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

Case reference : **LON/00AY/LDC/2023/0176**

Property : **181 Norwood Road, Herne Hill, London,
SE24 9AF**

Applicant : **Southern Land Securities Ltd**

Representative : **Together Property Management Ltd**

Respondent : **(1) Brett Dolman
and Sarah Alexander
(2) Patricia C Le Ret**

Representative : **Not Represented**

Type of application : **Application for the Dispensation of all
or any of the consultation requirements
provided for by section 20 of the
Landlord and Tenant Act 1985**

Tribunal member(s) : **Tribunal Judge B MacQueen
Tribunal Judge I Mohabir**

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

Date of decision : **5th September 2023**

DECISION

The tribunal determined this application by considering the bundle of papers (determination on the papers). A face to face hearing was not held because no-one requested this and all issues could be determined from the bundle of papers, as directed by the Tribunal on 19th July 2023. The documents that we referred to are in a bundle of 52 pages.

Introduction

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the Act”) for *retrospective* dispensation with the

consultation requirements in respect of remedial works to the door to 181 Norwood Road, Herne Hill, London, SE24 9AF (“the property”). The work comprised an emergency call out, the removal of the deadlock to the door by use of a grinder and the removal of the deadlock mechanism. The work was urgent because residents were locked inside and outside of the property.

2. The Applicant is the freeholder of the property and the Respondents are the leaseholders.
3. The application is supported by the witness statement dated 17th August 2023 of Karen Young, Operations Manager of Together Property Management who are instructed by the freeholder Southern Land Securities Ltd to act as the managing agent of the property.
4. At paragraph 2 and 3 of the witness statement, Karen Young confirms that on 26th July 2022 a call was received to say that the communal door to the property was broken and residents could not get in or out. Contractors (Lakeview Property Management) attended the property and found that the secondary lock had broken and that this needed to be removed to ensure that residents were not trapped inside the property.
5. Remedial work was carried out and an invoice dated 27th July 2022 is included within the bundle of papers at page 17. This shows the cost of the work as £618.00, including VAT.
6. At paragraph 5 of her witness statement, Karen Young confirms that on 21st December 2022 the tenants were emailed and told that as the costs of the work exceeds £416.66 inclusive of VAT this is above the threshold for consultation (as set out in the lease dated 20th June 1979), however because of the urgent nature of the work an application would be made to this tribunal for dispensation to consult.
7. On 7 July 2023, the applicant was issued by the Tribunal and the Directions were issued. The Respondents were directed to respond to the application stating whether they objected by 11th August 2023.
8. None of the Respondents have objected to the application.

Relevant Law

9. This is set out in the Appendix annexed hereto.

Decision

10. As directed, the Tribunal’s determination “on the papers” took place on 5 September 2023 and was based solely on the documentary evidence filed by the Applicant. As stated earlier, no objections had been received from any of the Respondents nor had they filed any evidence.
11. The relevant test to be applied in an application such as this has been

set out in the Supreme Court decision in *Daejan Investments Ltd v Benson & Ors* [2013] UKSC 14 where it was held that the purpose of the consultation requirements imposed by section 20 of the Act was to ensure that tenants were protected from paying for inappropriate works or paying more than was appropriate. In other words, a tenant should suffer no financial prejudice in this way.

12. The issue before the Tribunal was whether dispensation should be granted in relation to the requirement to carry out statutory consultation with the leaseholders regarding the works that had been carried out. As stated in the directions order, the Tribunal is not concerned about the actual cost that has been incurred.

 13. Accordingly, the Tribunal granted the application for the following reasons:
 - (a) the Tribunal was satisfied that the nature of the works had to be undertaken by the Applicant sooner rather than later for the safety of the leaseholders of the property.
 - (b) The Tribunal was also satisfied that if the Applicant carried out statutory consultation, it is likely that any further delay would have meant that tenants could not leave or enter the property safely.
 - (c) the Tribunal was satisfied that the Respondents have been kept informed of the need, scope and estimated cost of the proposed works.
 - (d) the Tribunal was satisfied that the Respondents have been served with the application and the evidence in support and there has been no objection from any of them.
 - (e) importantly, the real prejudice to the Respondents would be in the cost of the works and they have the statutory protection of section 19 of the Act, which preserves their right to challenge the actual costs incurred by making a separate service charge application under section 27A of the Act.

 14. The Tribunal, therefore, concluded that the Respondents were not being prejudiced by the Applicant's failure to consult and that it is reasonable for the tribunal to dispense with the consultation requirements.

 15. It should be noted that in granting this part of the application, the Tribunal makes no finding that the scope and estimated cost of the repairs are reasonable.
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Names: Tribunal Judge B
MacQueen
Tribunal Judge I
Mohabir

Date: 5 September 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).

Appendix of relevant legislation

Landlord and Tenant Act 1985 (as amended)

Section 20

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
 - (a) complied with in relation to the works or agreement, or
 - (b) dispensed with in relation to the works or agreement by (or
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on appeal from) the appropriate tribunal .

- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount, which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
 - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
 - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
 - (a) an amount prescribed by, or determined in accordance with, the regulations, and
 - (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.

Section 20ZA

- (1) Where an application is made to a leasehold valuation tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long-term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
