



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

Case reference : **LON/00AY/LDC/2023/0240**

Property : **118 Gauden Road, London, SW4 6LU**

Applicant : **118 Gauden Road Ltd**

Representative : **Alan Turkington (Director)**

Respondents : **The eight Leaseholders of
118 Gauden Road**

Type of application : **Dispensation with Consultation
Requirements under section 20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Judge Robert Latham
Stephen Mason FRICS**

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

Date of decision : **5 December 2023**

DECISION

The Tribunal grants this application to dispense retrospectively with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of urgent works to remedy penetrating dampness to Flat B.

The Application

1. On 25 September 2023, the Applicant applied for retrospective dispensation from the statutory duty to consult in respect of urgent works to remedy penetrating dampness affecting Flat B which is on the lower ground floor at 118 Gauden Road, London, SW4 6LU ("the Property").
2. The Property is a five storey building which has been converted to create eight flats. The application relates to works required to remedy dampness which had rendered Flat B uninhabitable. The freehold company, 118 Gauden Road Ltd, is owned by the lessees. The application has been brought on behalf of the Applicant by Mr Alan Turkington, a director, who is the lessee of Flat B.
3. A survey had identified urgent works to remedy penetrating dampness that was affecting Flat B. Dampness was affecting the bathroom door and the entire wall of one bedroom. It had compromised the plasterwork and walls in both areas. On 18 September 2023, works commenced with required the removal of the plaster, tanking the wall, and remedying the cause of the dampness. On 20 September 2023, Mr Turkington notified the lessees of the proposed works. Two estimates had been obtained; a third builder had failed to quote. Mr Turkington had accepted the lowest in the sum of £3,950.
4. On 8 October 2023, the Tribunal issued Directions. The Directions stated that the Tribunal would determine the application on the papers, unless any party requested an oral hearing. No party has done so.
5. By 16 October 2023, the Applicant was directed to send to the leaseholders by email, hand delivery or first-class post: (i) copies of the application form (excluding any list of respondents' names and addresses) unless already sent by the applicant to the leaseholder/sublessee; (ii) if not already provided in the application, a brief statement to explain the reasons for the application; and (iii) the directions. The Applicant was further directed to display a copy of these in a prominent place in the common parts of the property. On 17 October, Mr Turkington emailed the relevant documents to the lessees.
6. By 6 November 2023, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and send it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the Applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.

7. The Applicant has provided a Bundle of Documents (51 pages) in support of the application. It has also provided a copy of the lease for Flat B.
8. Section 20ZA (1) of the Act provides:

“Where an application is made to the appropriate 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.”
9. **The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.**
10. The Tribunal is satisfied that it is reasonable to grant retrospective dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.
11. The Directions make provision for the service of the Tribunal’s decision. The Tribunal will email a copy of its decision to the Applicant. The Applicant is responsible for serving a copy of the Tribunal’s decision on the Respondents.

Judge Robert Latham
5 December 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 **by e-mail** 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).