



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

Case Reference : **CAM/00MG/LDC/2023/0043**

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

Property : **1-27 (odds) Newington Gate and 2
Penhurst Crescent, Lakeside, Milton
Keynes MK6**

Applicant : **Lakeside (Ashlands) Management
Company Limited**

Respondents : **The leaseholders named in the
application**

Type of application : **For dispensation from consultation
requirements - Section 20ZA of the
Landlord and Tenant Act 1985**

Tribunal member : **Judge Wayte**

Date of decision : **12 December 2023**

DECISION

The tribunal's decision

The tribunal determines under section 20ZA of the Landlord and Tenant Act 1985 to dispense with all the consultation requirements in relation to the works described in the statement of case; namely pest control services to eradicate rats in the loft spaces of the buildings making up the property, including replacing the soiled insulation.

The application

1. The Applicant applied for dispensation from the statutory consultation requirements in respect of the replacement of loft insulation following a rat infestation in the roof voids above flats 15 and 17 Newington Gate and 2 Peshurst Crescent. No details of the estimated cost of the works were included with the application.
2. The relevant contributions of the Respondents through the service charge towards the costs of these works would potentially be limited to a fixed sum unless the statutory consultation requirements, prescribed by section 20 of the Landlord and Tenant Act 1985 (the “**1985 Act**”) and the Service Charges (Consultation etc) (England) Regulations 2003:
 - (i) were complied with; or
 - (ii) are dispensed with by the tribunal.
3. The Applicant seeks a determination from the tribunal, under section 20ZA of the 1985 Act, to dispense with the consultation requirements. The tribunal has jurisdiction to grant such dispensation if satisfied that it is reasonable to do so.
4. In this application, the only issue for the tribunal is whether it is satisfied that it is reasonable to dispense with the consultation requirements. **This application does not concern the issue of whether any service charge costs of the relevant works will be reasonable or payable, or what proportion is payable.**

The property, the parties and the leases

5. The Applicant is the Management Company of the Property, which is described in the application form as a purpose built block of flats and a flat over garages, consisting of 10 residential units in total.
6. A sample lease was produced and it is assumed that all relevant leases are in the same form. The description of the flat in the first schedule includes the plastered ceilings but does not refer to the roof void above. The Fifth Schedule sets out the purposes for which the service charge is to be applied and includes keeping the whole of the roofs in good repair and condition. On a balance of probabilities, the tribunal is satisfied that the Applicant is liable for the works, the cost of which will form part of the service charge paid by the leaseholders.

Procedural history

7. On 7 November 2023, the tribunal gave case management directions. The directions included a reply form for any Respondent leaseholder who objected to the application to return to the tribunal and the Applicant by 4 December 2023, indicating whether they wished to have an oral hearing. The directions provided that this matter would be determined in the seven days commencing 11 December 2023 based on the documents, without a hearing, unless any party requested one.
8. The directions required the Applicant to serve the application and directions on the leaseholders by 17 November 2023. The Applicant confirmed in their email dated 22 November 2023 that the documents were sent to the leaseholders on 16 November 2023. None of the leaseholders has responded to the tribunal or the Applicant and I am satisfied that the application can be fairly determined on the papers.

The Applicant's case

9. The Applicant provided a statement of case with their bundle which set out in some detail the background to the application, including further detail of the works. They confirmed that the rat infestation had affected the roof spaces above residential accommodation in two buildings, the lofts above 15 and 17 Newington Gate and that above 2 Penshurst Crescent, which is a flat above four garages.
10. The Applicant became aware of the rat infestation in November 2022. A pest controller fitted bait boxes, with further treatment in January 2023. In July 2023, Rentokil carried out a survey of the affected areas and recommended the urgent removal and replacement of the loft insulation which had become contaminated by the rats. They quoted £15,257.14 ex VAT and the Applicant obtained a further quote from Xtra Maintenance for £8,050 ex VAT, which they accepted.
11. On 22 August 2023 an initial notice was sent to the leaseholders about the intended works but given the obvious health and safety concerns the Applicant decided to proceed with the lower quote without further consultation. The works were carried out in August, October and November to each loft space.

The Respondents' position

12. As noted above, the directions provided for any Respondent who wished to oppose the application for dispensation to complete the reply form attached to the directions and send it to the tribunal and the Applicant. No responses were received and in the circumstances the tribunal considers that the application was unopposed.

The tribunal's decision

13. In the circumstances, based on the information provided by the Applicant (as summarised above), I am satisfied that it is reasonable to dispense with the statutory consultation requirements in relation to the relevant works.
14. **As noted above, this decision does not determine whether the cost of these works was reasonable or payable under the leases, or what proportion is payable under the lease(s), only whether the consultation requirements should be dispensed with in respect of them.**
15. There was no application to the tribunal for an order under section 20C of the 1985 Act.

Name: Judge Wayte

Date: 12 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 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).