



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

Case Reference : **LON/00AW/LDC/2023/0113**

Property : **26 Onslow Gardens, London SW7 3AG**

Applicant : **The Wellcome Trust**

Representative : **Savills**

Respondents : **As per the attached schedule**

Representatives : **None**

Type of Application : **Dispensation from consultation requirements under section 20ZA Landlord and Tenant Act 1985 (“the Act”)**

Tribunal Member : **Mr Charles Norman FRICS
Valuer Chairman**

Date of Decision : **12 June 2024**

DECISION

Decision

1. The application for dispensation from the consultation requirements in respect of a redecoration following a leak and remedial works for damp at an aggregate cost of £2,350 plus VAT is **GRANTED** unconditionally.

Reasons

The Applicant's Case

2. Application to the Tribunal dated 14 April 2023, was made for a dispensation from the consultation requirements under section 20ZA of the Landlord and Tenant Act 1985 ("the Act") (set out in the appendix). The application related to urgent works to remedy damp and redecorate part of the hallway and three walls within the property. The works had been carried out.

Directions

3. Directions were issued on 15 June 2023 (amended 1 August 2023) that the matter be dealt with by written representations, unless any party made a request for an oral hearing, which none did. The directions required publicity to be given to the application in the block. In addition, the respondents were invited to respond to the application. The applicant supplied a bundle of 63 pages which omitted the directions.

The Property

4. From the application form, the property comprises a residential block. There are 6 respondents.

The Leases

5. The Tribunal was supplied a sample lease. However, the Tribunal makes no finding as to payability or reasonableness of the costs to be incurred as that is outside the scope of this application.

The Respondents' Cases

6. The lessees did not respond to the application.

The Law

7. Section 20ZA is set out in the appendix to this decision. The Tribunal has discretion to grant dispensation when it considers it reasonable to do so. In addition, the Supreme Court Judgment in *Daejan Investments Limited v*

Benson and Others [2013] UKSC 14 empowers the Tribunal to grant dispensation on terms or subject to conditions.

Findings

8. The landlord did not write to the Tribunal confirming that the application had been publicised in the common parts as directed. However, the Tribunal is satisfied that the respondents were written to and therefore waives that breach of the directions.
9. The Tribunal finds that remediation of damp to the property and subsequent redecoration was urgently required. The Tribunal finds that the applicant has acted reasonably in its approach. No lessee has objected to the application. The Tribunal has not identified any prejudice caused to any lessee as a result of the application. Accordingly, the Tribunal grants dispensation unconditionally.
10. This application does not concern the issue of whether any service charge costs have been reasonably incurred or are payable. The residential leaseholders continue to enjoy the protection of sections 19 and 27A of the Act.

Charles Norman FRICS
Valuer Chairman

12 June 2024

ANNEX - RIGHTS OF APPEAL

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

Respondents

Ms G Davies Flat 1

Cyrus Sabourian Flat 2

Kintoo Holdings Inc Flat 3

A D MacLellan Esq Flat 4

Mr Edward Graham Kerr-Dineen Flat 5

Ms L Ward & Mr M Reid-Moore Flat 6

Appendix

Section 20ZA Landlord and Tenant Act 1985

(1) 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.

(2) In section 20 and this section—

“qualifying works” means works on a building or any other premises, and

“qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.

(3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement—

(a) if it is an agreement of a description prescribed by the regulations, or

(b) in any circumstances so prescribed.

(4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.

(5) Regulations under subsection (4) may in particular include provision requiring the landlord—

(a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,

(b) to obtain estimates for proposed works or agreements,

(c)to invite tenants or the recognised tenants' association to propose the names of persons from whom the landlord should try to obtain other estimates,

(d)to have regard to observations made by tenants or the recognised tenants' association in relation to proposed works or agreements and estimates, and

(e)to give reasons in prescribed circumstances for carrying out works or entering into agreements.

(6)Regulations under section 20 or this section—

(a)may make provision generally or only in relation to specific cases, and

(b)may make different provision for different purposes.

(7)Regulations under section 20 or this section shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.