



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

Case Reference : **MAN/ooBR/LDC/2024/0006**

Property : **ALBERT VAULTS, 169 – 171 CHAPEL STREET, SALFORD, MANCHESTER**

Applicant : **RICHARD DOUGLAS LAPTHORNE**

Respondents : **SISCO Q3 Ltd
Riaz Ahmed and Saba Khan
Teeof UK Ltd
Dameon Miller and Mikela Billouin-Miller
Ascendis Property Ltd
Kristian Ellis
Sarkodieh Ltd**

Type of Application : **For dispensation pursuant to section 20ZA
Landlord and Tenant Act 1985**

Tribunal Members : **A M Davies, LLB
A Hossain, Bsc (Est Man) MRICS**

Date of Decision : **3 June 2024**

DECISION

DECISION

In relation to the replacement of 2 water pumps on or about 9 November 2023 at Albert Vaults, 169 – 171 Chapel Street, Salford the statutory consultation procedure required by section 20 of the Landlord and Tenant Act 1985 is dispensed with.

REASONS

1. The Applicant is the landlord of 25 flats contained on the first to eighth floors of Albert Vaults, 169 – 171 Chapel Street, Salford (“the Building”). The ground floor of the building is a commercial unit to which the issues in this application do not apply.
2. The Respondents are leaseholders of flats in the Building. The Applicant landlord has retained 11 flats. SISCO Q3 Ltd holds 8 of the flats. The remaining Respondents each hold one flat in the Building.
3. The Building was built in or about 2019. Due to damage caused by debris possibly as the result of works by a third party, on 7 November 2023 the 2 water pumps in the Building failed and the residents were without a water supply.
4. The Applicant’s management agents Residential Management Group Ltd had been using Rescom Ltd to carry out maintenance and repairs at the property. They considered that Rescom Ltd had the expertise to carry out an urgent replacement of the pumps, and had the advantage of being familiar with the Building. Accordingly Rescom Ltd were contracted to do the work and completed it on 9 November 2023. Their invoice is for £7,327.45 including VAT, resulting in a cost of approximately £293 per flat payable in accordance with the service charge provisions of the Respondents’ leases.
5. The Applicant has applied to the Tribunal for leave to dispense with the statutory consultation procedure required by section 20 of the Landlord and Tenant Act 1985 (“the Act”).

THE LAW

6. Section 20 of the Act and regulations made under that section set out the requirements for consultation in the event that work carried out at a property is expected to cost any leaseholder, through the service charge, more than £250. If those detailed requirements are not complied with, any leaseholder at the property can apply to the Tribunal for an order that his or her contribution to the cost of the work is limited to £250.
7. The statutory consultation procedure is relatively lengthy, in that following each of 2 stages of the consultation the landlord must allow at least 30 days for leaseholders to respond to his proposals.

8. Section 20ZA(1) states:

“ 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 the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

9. The leading case on section 20ZA applications is *Daejan Investments Ltd v Benson and others* (2013) UK SC14. The Supreme Court in that case provided guidance as to the correct approach to the grant or refusal of dispensation, and this can be summarised, for the purposes of this decision, as follows –

- (a) The requirements are not an end in themselves: they are intended to protect tenants from paying for inappropriate work or from paying more than would be appropriate;
- (b) The Tribunal should therefore focus on whether the tenants will be prejudiced in either of these ways if the consultation is not carried out;
- (c) The decision should not be affected by the financial consequences it might have on the landlord;
- (d) If the tenants claim that they have suffered, or would suffer, some relevant prejudice, they must identify it. The landlord must then attempt to convince the Tribunal that dispensation is nevertheless appropriate;
- (e) The Tribunal can grant dispensation on such reasonable terms as it thinks fit.

10. It follows from these statutory provisions that the only issue before the Tribunal currently is whether it is reasonable to dispense with the section 20 consultation requirements. This does not involve deciding whether the landlord has acted reasonably, but only whether the tenants will be prejudiced by the lack of consultation and cannot be adequately compensated. This decision is not concerned with whether an insurance or third party claim may be available to the Applicant.

11. Specifically, this Tribunal is not deciding whether the replacement of the pumps was properly undertaken by the landlord, or whether the cost was reasonable, or whether the work was carried out to a reasonable standard. Those issues can be raised by any leaseholder at a later date, when and if the cost of the work is included in the service charge account. At that point an application to the Tribunal for a determination as to the amount and payability of the service charge can be made under section 27A of the Act.

DETERMINATION

12. The Tribunal finds that the Applicant's decision to forego the section 20 consultation was justified in the circumstances. The residents and Respondents were notified of the situation on 9 November 2023 by email. They were informed of the cost which had been incurred, and were invited to make representations in writing if they wished to do so. They were provided with a summary of the legal position. No resident or Respondent has claimed to have suffered prejudice and there has been no other objection to the actions taken by the Applicant.
13. In the circumstances no prejudice has been suffered and the Tribunal grants unconditional dispensation from the consultation procedures of section 20 of the Act.

Annex A -List of Respondent Leaseholders

1. SISCO Q3 Ltd
2. Mr & Mrs Khan
3. Teeof UK Ltd
4. Mr Dameon Miller & Mrs Mikela Billouin-Miller
5. Ascendis Property Ltd
6. Mr Kristian Ellis
7. Sarkodieh Ltd