



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

Case Reference : **LON/00BE/LDC/2023/0132**

Property : **15 & 15 A Surrey Road, Peckham,
London Se15 3AS**

Applicant : **Southern Land Securities Limited**

Respondents : **The leaseholders of the flats within the
property**

**Type of
Application** : **Application under section 20ZA to
dispense with consultation
requirements for a scheme of Major
work**

Tribunal Members : **Judge Daley**

**Date and venue of
Paper
Determination** : **29 October 2024, remote**

Date of Decision : **29 October 2024**

DECISION

Decision of the tribunal

- i. The tribunal grants dispensation in respect of the major works relating to the repair and replacement work of the roofing and rainwater goods and the access work in the sum of £1800.**
- ii. The Tribunal makes no order for the cost occasioned by the making of the application.**

The application

1. The applicant by an application, made on 12 May 2023 sought dispensation under section 20ZA of the Landlord and Tenant Act 1985 from part of the consultation requirements imposed on the landlord by section 20 of the 1985 Act¹.
2. The premises which is the subject of the application is a late Victorian solid brick mid-terrace property which has been converted into two self-contained flats.

The Background

3. This application sought an order for dispensation of the consultation requirements in respect of the premises, on the grounds that the first-floor flat was suffering damage due to water ingress which affected the bedroom in the first floor flat, causing damage to the fabric of the property. Given this the work was urgent to avoid further damage occurring.
4. Three estimates were obtained, and the Applicant had to undertake the work and did not have sufficient time to carry out the Section 20 consultation exercise.
5. Directions were given in writing on 3.09.2024, setting out the steps to be taken by the Applicant, (including serving the directions on the respondents) for the progress of this case.
6. The Directions at paragraph C stated that -: "...The only issue for the tribunal 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.

¹ See Service Charges (Consultation Requirements) (England) Regulations 2003 (SI2003/1987)

1. The Directions also provided that -: *Those leaseholders who oppose the application must by 1 October 2024 -: complete the attached form and send it by email to the Tribunal; and*

Send to the applicant/ landlord by email or post a statement in response to the application with a copy of the reply form by email or by post. They should send with their statement copies of any documents upon which they wish to rely.

2. The Directions also provided that the application would be determined based on written representations in the week commencing 28 October 2024, and that any request for a hearing should be made by 15 October 2024.
7. No request was made for a hearing, and the Tribunal having reviewed the papers are satisfied itself that the matter was suitable to be dealt with on the papers.

The Applicant's case

8. The applicant in their statement of case set out as follows:-
9. The Applicant set out that the managing agents were contacted in November 2022 in relation to water ingress into the property due to poor weather. The applicant instructed Hamilton Roofing. Hamilton Roofing informed the managing agents that the work could not be undertaken without scaffolding.
10. Two contractors were contacted and asked to quote for the work. Ray Jones Roofing and Hamilton Roofing.
11. The final quotation was received on 6 December 2022. The contract for the work was awarded to Hamilton Roofing on 19 December 2022.
12. The work was undertaken shortly afterwards. The invoice was in the sum of £1800.00.
13. The Applicant provided the Tribunal with a copy of the lease however the Tribunal has not considered whether the work undertaken is payable in accordance with the terms of the lease.

The Respondent's Case

14. The Tribunal received no written objections a written objection to the costs of the work from the leaseholders.

The tribunal's decision and reason for the decision

- I. The Tribunal having considered all the circumstances in this case and has decided to dispense with the consultation requirements.
- II. The Tribunal has considered the lease however, it makes no findings as to whether on a proper construction of the lease the sums due are payable by the leaseholders.
- III. The Tribunal was provided with two quotes, Hamilton Roofing in the sum of £1500 plus VAT, and Ray Roofing in the sum of £1690.00 plus VAT. The Applicant decided to go with the cheaper quotation from Hamilton Roofing.
- IV. The Tribunal noted that its jurisdiction in this matter is limited to the scope as set out in Section 20ZA and as discussed by the court in *Daejan –v- Benson (2013)* which requires the Tribunal to decide on whether the leaseholders would if dispensation is granted suffer any prejudice. The Tribunal has carefully considered the estimates which were provided. The Tribunal has no information before it that the work was overpriced. The Tribunal finds that the work was urgent.
- V. As such it has not found that the Respondents would suffer prejudice as result of not being consulted under Section 20 of the Landlord and Tenant Act 1985.
- VI. Although the Tribunal does not find that there is any prejudice to the dispensation being granted, The Tribunal would note that the limit in its jurisdiction has meant that it has not considered whether the work was within the scope of the repairing covenant in the lease, **As such nothing in the Tribunal's decision deals with the reasonableness or payability under the lease of the work in issue.**
- VII. The leaseholders will of course enjoy the protection of section 27A of the 1985 Act so that if they consider the costs of the work are not reasonable (on the grounds set out above or any other ground) they may make an application to the tribunal for a determination of their liability to pay the resultant service charge.
- VIII. **However, the Tribunal is satisfied that in all the circumstances in this application it is reasonable to grant dispensation**
- IX. No applications were made for costs before the tribunal.

Judge Daley

Date: 25.10.2024

Appendix of relevant legislation

Landlord and Tenant Act 1985

Section 27A

- (1) An application may be made to a leasehold valuation tribunal for a determination whether a service charge is payable and, if it is, as to -
 - (a) the person by whom it is payable,
 - (b) the person to whom it is payable,
 - (c) the amount which is payable,
 - (d) the date at or by which it is payable, and
 - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to a leasehold valuation tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to -
 - (a) the person by whom it would be payable,
 - (b) the person to whom it would be payable,
 - (c) the amount which would be payable,
 - (d) the date at or by which it would be payable, and
 - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which -
 - (a) has been agreed or admitted by the tenant,
 - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
 - (c) has been the subject of determination by a court, or
 - (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.

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 on appeal from) a leasehold valuation 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.]

1. **S20ZA Consultation requirements: supplementary**

- (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.
- (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. [...]
2. The relevant Regulations referred to in section 20 are those set out in Part 2 of Schedule 4 of the Service Charge (Consultation etc) (England) Regulations 2003.