



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

Case reference : **MAN/00FF/LDC/2024/0051**

Property : **Flats 1-7, 22 Lawrence Street, York YO10 3WL**

Applicant : **The Tannery Management (York) Limited**

Representative : **Mulberry PM Ltd**

Respondent : **Various residential long-leaseholders of Flats 1-7, 22 Lawrence Street listed in the annex to this decision**

Type of application : **Landlord & Tenant Act 1985 S20ZA**

Tribunal Members : **Mr J A Platt FRICS FTPI (Chairman)
Mr P Mountain**

Date of decision : **29 January 2025**

DECISION

DECISION

Pursuant to section 20ZA of the Landlord and Tenant Act 1985 the Tribunal makes a determination to dispense with the requirement for the Applicant to consult with the Respondents on undertaking works, completed in or around June 2024, to rectify damp at Flat 1, 22 Lawrence Street, York.

REASONS

The Application

1. The application ('the Application') was made on 22 July 2024 by the Applicant's Representative. It seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 ('the Act') in relation to the statutory consultation requirements prescribed by Section 20.
2. The subject works are to remediate damp issues within flat 1 created by a leaking gutter and faulty damp proof course caused by debris blocking the cavity. The works were completed in or around June 2024.
3. Directions were issued on 6 November 2024. The Applicant has complied with those directions and provided a statement of case and associated supporting documents. None of the Respondents have notified the Tribunal of a wish to oppose the application and no statements or evidence have been received in response to the Applicant's statement.
4. The directions advised that a determination would be made on the papers alone unless any of the parties requested a hearing. No request for a hearing was received. The Tribunal met (remotely) on 27 January 2025 to determine the matters on the papers received.

The Law

5. Extracts from Sections 20 and 20ZA of the Act are appended.
6. The Tribunal considers the Supreme Court case of *Daejan Investments Limited v Benson and Others* [2013] UKSC 14 ('*Daejan*') to be the leading case on dispensation. In *Daejan* Lord Neuberger stated that in deciding pursuant to section 20ZA whether it is reasonable to dispense with consultation requirements, a tribunal should consider whether any relevant prejudice would be suffered by the leaseholders. Lord Neuberger stated that whilst the legal burden of proof rests throughout on the landlord, the factual burden of identifying some relevant prejudice that they would or might have suffered rested on the tenants.

Determination

7. In this case, none of the Respondents have opposed the Application. The Tribunal finds therefore that there is no relevant prejudice identified by any Respondent, suffered as

a consequence of the Applicant's decision not to follow the consultation requirements prescribed by Section 20 of the Act.

8. A decision on the issue of dispensation does not concern the issue of whether any service charge costs resulting from any agreement are reasonably incurred or payable.
9. In the circumstances of this case, the Tribunal considers it reasonable to dispense with the consultation requirements. Accordingly, the Tribunal makes a determination under section 20ZA of the Act to dispense with the requirement to consult with the Respondents under Section 20, on undertaking works, completed in or around June 2024, to rectify damp at Flat 1, 22 Lawrence Street, York.

Annex: List of Respondents

Mr Sam Pickard
Mr & Mrs A Timbs
Mr Simon Dawson
Ms Emma Chappell
Ms Amanda Fox
Ms Alessandra Pau
Mr Thomas Hurst

Appendix

Landlord and Tenant Act 1985

Section 20

(Subsections (1) and (2):)

(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 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 under the agreement.

Section 20ZA

(Subsection (1))

(1) Where an application is made to a 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.