



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

Case reference : LON/00AG/LDC/2021/0193

**Landlord
/Applicant** : Eastway Capital Limited

Representative : ABC Block Management Ltd

**Tenants/
Respondents** : Blooms Rooms Limited (1)
Mr M Anselm and Mrs S Anselm (2)
Mr Raven (3)

Property : 7 Hampstead High Street, London NW3
1PR

Tribunal : Mr Charles Norman FRICS

Date of Decision : 14 September 2021

DECISION

Covid-19 pandemic: description of determination

This has been a remote determination. The form of remote determination was P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, no-one requested the same, and all matters could be determined on the papers. The documents that the Tribunal were referred to are in a bundle of 73 pages, the contents of which the Tribunal has noted.

Decision

1. Dispensation in respect of the remaining consultation requirements is **GRANTED** unconditionally.

Reasons

Background to the application

- (1) The landlord/applicant has applied for dispensation from the statutory consultation requirements in respect of

External Repairs and redecorations

- Full external scaffolding will be necessary
- Pointing and cracking brickwork repairs to various parts of the brickwork & render elevations will be required.
- Lead detailing and flashings need to be repaired and if necessary, replaced in places.
- Redecoration and necessary repair of all external wooden windows, window frames, cills and all other woodwork, including fascia panels and high-level woodwork.
- Redecoration of cornices, plinths, and window surrounds.

Roof Issues

- Repair of roof areas

Rainwater pipes

- All rainwater goods to be upsized.

- (2) A stage 1 section 20 Notice of Intention was issued on 30th July 2021. It expired on 3rd September.

- (3) The application was said to be urgent to prevent further water ingress to Flat B and to ensure the building and the rainwater goods are watertight.

The Applicants' Case

2. This may be summarised as follows. Following heavy rain, on 12 July 2021, the managing agent of flat B made an out of hours emergency report of a water leak and damage to that flat. The landlord arranged immediate contractor attendance, which was unproductive owing to weather conditions. On 25 July 2021 a further leak caused more damage. The contractor provided a video from the roof and box gutter which showed that rainwater was flowing down the gutters. This demonstrated that the rainwater goods were undersized to cope with the volume of rainwater. This caused water ingress to the brickwork pointing and rendering. On 30 July 2021, a stage 1 section 20 notice of intention was issued together with a dispensation application to the Tribunal. On 2 August 2021 the landlord arranged access for Mr Darren Patmore MRICS to inspect and produce a specification of works. These were provided on 4 August 2021. The advice was that water ingress was present in each of the units. On 3 September 2021, Mr Patmore provided the specification of works, and a tender

process is currently underway. An email dated 4 August 2021 from Mr Patmore supported the applicant's case.

The Respondents' case

3. None of the Respondents responded to the application.

The Law

4. 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

5. The Tribunal finds that the applicants have acted reasonably in dealing with urgent disrepair and it notes that that none of the residential tenants have objected to the application. Therefore, the appropriate outcome under section 20ZA is that dispensation is granted unconditionally in respect of stages 2, 3 and 4 of the consultation requirements (estimates, notices about estimates and notification of reasons) in respect of the works set out in the stage 1 notice.
6. **However, this decision has no bearing on the question of the reasonableness of costs to be incurred or their payability. The Tribunal makes no findings in relation to those matters.**

C Norman FRICS
Valuer Chairman

14 September 2021

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.

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.