

THE RESIDENTIAL PROPERTY TRIBUNAL SERVICE**DECISION OF THE LONDON LEASEHOLD VALUATION TRIBUNAL ON
AN APPLICATION UNDER SECTION 20ZA OF THE LANDLORD AND
TENANT ACT 1985**

Property: 14 Warlock Road, Maida Hill, London W9 3LR

Applicant: Marlene Diedrick

Respondents: Timothy Ingram-Smith and Gail Astbury

**Determination without an oral hearing according to the procedure contained in
regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England)
Regulations 2003**

Tribunal: Lady Wilson
Mr P Tobin FRICS MCI Arb

Date of the tribunal's decision: 5 February 2008

1. This is an application under section 20ZA of the Landlord and Tenant Act 1985 (“the Act”) for a dispensation from the consultation requirements in relation to qualifying work which the landlord proposes to carry out to 14 Warlock Road, Maida Hill, London W9. The property is a terraced house which is converted into two flats. The upper flat, 14B, is owned and occupied by the freeholder, Ms Marlene Diedrick, and the lower flat, 14A, is held on a long lease and occupied by Mr Timothy Ingram-Smith and Mrs Gail Astbury who are the respondents to the application and will be referred to as “the tenants” in this decision.. By the tenant’s lease the landlord covenants to maintain the structure, including the roof, and the tenants covenant to pay a proportion of the cost.
2. This decision is made on the basis of written representations according to the procedure set out in regulation 13 of the Leasehold Valuation Tribunals (Procedure) (England) Regulations 2003, the parties having consented to such a determination and sent written representations in compliance with the tribunal’s directions.
3. The work which the landlord proposes to carry out consist of the replacement of the roof. The work is said to be urgent because the roof is leaking and because further damage may occur if it is not replaced in the very near future. The tenants oppose the application and say that further investigation is required to determine whether the wholesale replacement of the roof is necessary or whether a more limited repair will suffice.
4. The landlord has obtained a quotation from Admiral, who are said to be roofing specialists, to strip, re-felt and re-slate the roof for £10,500. VAT is not mentioned in the quotation, which does not record that Admiral is registered for VAT. The quotation does not describe the present state of the roof. It says that the insurance company has declined to pay for the works, citing poor maintenance.
5. In their answer to the application the tenants say that proper consultation, and a surveyor’s report, is necessary in order to decide whether the roof requires

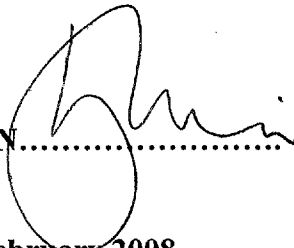
replacement or simply maintenance. They say that there was no mention of any problems with the roof until Ms Diedrick informed the tenants of a leak in October 2007 and told them that the roof was to be replaced. Mr Ingram-Smith said that he asked Ms Diedrick to inspect the flat and the loft. He said that he had been permitted to inspect the flat and had seen a small stain on one of the ceilings but that he had been refused access to the loft and the exterior of the roof. The tenants say that they understand that the roof was replaced 20 years ago and they consider that it ought not necessarily to require replacement yet. They say that the neighbouring house is at present being renovated by Westminster City Council and that the contractor who is carrying out the roof works to that property has said that he could see "minor damage" to the lead flashings of No 14. They say that there is neither evidence to support the landlord's assertion that the roof is in such poor condition that it requires replacement, nor that the insurance company had correctly declined responsibility for its replacement if such was required.

6. In her reply the landlord says that she refused Mr Ingram-Smith access to the loft because she felt uncomfortable with him in her bedroom and because he is not a specialist roofer. To her reply she attaches other quotations for the works dated 3 October 2007 in the sum of £12,640 and dated 25 November 2007 in the sum of £14,200 and a brief survey from Rok, a builder instructed by the insurer, which described the problem as "ingress of water from roof from valley. Damage to bedroom ceiling".
7. Section 20ZA of the Act provides that the tribunal may dispense with all or any of the consultation requirements in relation to qualifying works if it is *satisfied that it is reasonable to dispense with the requirements*. There is no doubt that these are qualifying works.
8. We are not satisfied that it is reasonable to dispense with the requirements in this case. It is not established by evidence that the wholesale replacement of the roof is urgently required. Indeed, we would not necessarily expect that a roof covering of Eternit slates, as this appears to be, would require replacement within 20 years of its installation. Nor has it in our view been

established that the works are so urgent that they cannot wait for the few weeks that proper consultation under Schedule 4, Part 2, to the Service Charges (Consultation Requirements) England Regulations 2003 will require.

9. Accordingly this application is dismissed.

CHAIRMAN.....

A handwritten signature in black ink, appearing to be 'B. Min', written over a dotted line. The signature is cursive and somewhat stylized.

DATE: 5 February 2008