

SOUTHERN RENT ASSESSMENT PANEL
LEASEHOLD VALUATION TRIBUNAL

CHI/00HN/LDC/2009/0040

Decision of the Leasehold Valuation Tribunal on application(s) under Section 20ZA of the Landlord and Tenant Act 1985 as amended

Applicant	Hilton Grange Limited
Respondents	The Lessees of Flats 1-39 Hilton Grange
Re:	Hilton Grange, 20 Knyveton Road, Bournemouth BH1 3QS
Date of Application	16 th December 2009
Date of Inspection	4 th January 2010
Date of Hearing	4 th January 2010
Venue	Royal Bath Hotel, Bournemouth
Appearances for Applicant	Mr S J McWilliams & Mr A Taylor, Bourne Estates Limited, the Managing Agents; Mr Cleall and Mr Kazemzadah, two directors of the Applicant
Appearances for Respondent	None

Members of the Leasehold Valuation Tribunal

	M J Greenleaves	Lawyer Chairman
	A J Mellery-Pratt FRICS	Valuer Member
Date of Tribunal's Decision:	4 th January 2010	

Decision

1. References below to "the regulations" are to the Service Charges (Consultation etc) (England) Regulations 2003 and to a "paragraph" are to the relevant paragraph of Schedule 4 to the regulations.
2. The Applicant is granted dispensation under Section 20ZA of the Landlord and Tenant Act 1987 (the Act) from compliance with the consultation requirements of Section 20 of the Act in respect of work necessary to be done at Hilton Grange, 20 Knyveton Road, Bournemouth BH1 3QS (the premises) consequent on failure of the central heating boiler to the following extent:
 - a. for the purposes of paragraph 8, the relevant period expired at 11 am on 4 January, 2010;
 - b. the Applicant has or shall be deemed to have complied with paragraph 9;
 - c. if any observations have been received under paragraph 10, the Applicant shall not be required to take any further steps in relation to those observations and the provisions of paragraph 11 sub-paragraphs (1) to (4) shall not apply;
 - d. the Applicant having obtained relevant estimates for the supply and installation of a new boiler and related works from Seaforth Services and Mechelec Services Ltd, the Applicant shall be deemed to comply with paragraph 11 (5) by sending by first class post no later than 5 January, 2010 to each of the lessees, copies of those estimates together with all available information as to the cost of installation of the temporary heating system and its estimated weekly running cost in terms of rental and fuel;
 - e. the Applicant shall not be required to comply with paragraph 11 (10)-(12).

Reasons

Introduction

3. This was an application made by the Applicants, the landlords of the premises, for dispensation from compliance with the consultation requirements of Section 20 of the Act in respect of replacement of a central heating boiler.

Inspection

4. The Tribunal inspected the premises in the presence of Mr Cleall and Mr Kazemzadah, two directors of the Applicant and of Mr McWilliams.
5. The premises comprise a building converted into a 22 flats with a modern extension at the rear with a further 17 flats.
6. The boiler room is below ground level with difficult access and presently contains the non-functioning boiler. Connected to the central heating is a temporary external boiler and fuel tank.

Hearing

7. Notice of the application had been served on all the Respondents to the application but none of them attended nor did they submit any representations.
8. The hearing was attended only by Mr McWilliams, Mr Taylor, Mr Cleall and Mr Kazemzadah.
9. Evidence and submissions for the Applicant:
 - a. A problem first arose with the central heating boiler on 1 December, 2009. An engineer reported that there was insufficient water in the system and remedial work was carried out. However, 2 or 3 days later it was found that water was leaking from the boiler. The Applicant had tried to obtain spare parts for this Beeston boiler but they were no longer available.
 - b. Because of the cold weather, initially temporary electric heaters were provided to occupiers. There was concern as to the probable overload of the electrical circuit from the use of electric heaters.
 - c. So Seaforth Services were instructed to install the temporary central heating boiler. The cost of this installation was about £5000 and a further £1000 cost for lagging the connection, the rent is £360 per week and a further £1000 per week for oil. The fuel cost compares with around £9000 per annum for the gas supply for the central heating hitherto.
 - d. On 3rd December a Section 20 notice was issued to all lessees of the Applicant's intention to carry out replacement of the central heating boiler, flu and ancillary equipment supplying heating and hot water to flats 1 to 22, the consultation period expiring on 4th January 2009.
 - e. On 6th December a quotation was received from Mechelec Services Ltd. Their quotation notes that the present system does not comply with current regulations. The quotation for the installation of a Strebel boiler and associated work was £19,860 plus VAT. A further estimate was received from Mechelec Services on 14th December for installation of a Ferrolli boiler and associated works of not less than £19,101 plus VAT. By e-mail dated 24th December 2009, Seaforth Services quoted for the fitting of 2 new boilers and associated works for £14,000 plus VAT.
 - f. The Applicant has already contracted with Seaforth Services on the basis of their quotation and the equipment is expected to arrive in the course of the week commencing 4th January installation taking 4 to 5 days.
 - g. The Applicant had proceeded quickly for 2 reasons: first, because of the cold weather and secondly because the cost of the temporary system would have a severe effect on service charge funds. The net funds available in the service charge accounts is presently £15,289. The freeholder is able to loan £7000 to the service charge account but a levy will be required for further service charge contributions from lessees to pay for the work. Conversely, if the work is not done swiftly, the running costs of the temporary system will seriously reduce the funds available to pay for a new installation.

- h. Copies of forms signed by 29 lessees were produced to the Tribunal agreeing to the Applicant proceeding with the replacement boiler prior to expiry of the initial notice dated 3rd December.

Consideration

10. We considered the evidence and submissions and took into account our inspection of the premises.
11. The Applicant, through Bourne Estates, had, in our view, acted promptly throughout in serving the initial notice, obtaining estimates, considering the financial situation and arranging temporary heating. In the circumstances we considered it was very understandable that it had decided to contract for the new installation without delay.
12. We reached our decision on the basis that it would be contrary to the interests of the lessees and occupiers to delay the remedial work for the reasons given to us by the Applicant as noted at paragraph 9g above, bearing in mind the efforts made by the Applicant to alleviate the problem and to inform lessees on the issues as far as possible.
13. Accordingly it was reasonable to dispense with the consultation requirements to the extent stated in our decision.
14. However, we must stress that the application before us was for dispensation from the consultation regulations. It was not for us to determine any issues which might be the subject of an application under section 27A of the Landlord and Tenant Act 1985 and nothing we say in this decision or reasons fetters any future Tribunal.

Signed

M J Greenleaves (Chairman)

A member of the Southern
Leasehold Valuation Tribunal
appointed by the Lord Chancellor