

**SOUTHERN RENT ASSESSMENT PANEL &
LEASEHOLD VALUATION TRIBUNAL**

Case No: CHI/00MR/LDC/2010/0008

Between:

Mr N A Shaw and Mrs J R Shaw (Applicants)

and

Ms Helene Birt (Respondent)

IN THE MATTER OF SECTION 20ZA OF THE LANDLORD AND TENANT
ACT 1985

Premises: 221 and 221A Tangier Road Portsmouth PO3 6PQ

Date of Application: 25 February 2010

Date of Hearing: 25 March 2010

**Tribunal: Mr D Agnew BA LLB LLM Chairman
Mr D Lintott FRICS**

DETERMINATION AND REASONS

1. Determination

The Tribunal dispenses with the requirement for the Applicants to undertake the consultation requirements laid down by Section 20 of the Landlord and Tenant Act 1985 ("the Act") and the Service Charges (Consultation Requirements) (England) Regulations 2003 for the following reasons:

2. The Premises

- 2.1 The premises comprise a two storey terraced house which has been converted into two self-contained flats. The Respondent has a long lease of the upper flat (221A) and the Applicants are the owners of the ground floor flat which is let on an assured shorthold tenancy.
- 2.2 The premises are constructed of brick under a slate roof. Each flat has a bay window to the living room and bedroom constructed of sandstone. On inspection the Tribunal could see that this sandstone was soft and had worn away considerably. A sandstone upstand at the

top of the front elevation above the upper right hand bay as one faces the building had fallen away and the remains were piled up at the front of the building. The Tribunal noticed that the sandstone upstand above the left hand bay as one looks at the front of the building is cracked and could fall at any time. The ironwork of the porch above the front doors to the flats was rusted and above that the wooden platform was rotten. The tiled path to the front door was badly damaged with many tiles missing. Some slates on the roof were displaced.

- 2.3 The Tribunal was able to gain entry to the ground floor flat. They noticed that the corner of the bay window in the living room showed signs of significant water ingress and there was some rotten woodwork at the top left hand corner of the bay window. There were cracks in the ceiling near to the wall above the bay window in the bedroom.
- 2.4 The external paintwork to the premises was in need of redecorating.

3. The Hearing

- 3.1 The Hearing took place at the Tribunal offices in Chichester immediately following the inspection on 25 March 2010. Present was the Applicant Mr Shaw together with Mr Batten who has carried out maintenance work at the premises and who prepared a specification for the proposed works. Mr Shaw and Mr Batten own a company called Holdarch Limited which carries out property maintenance and repairs in the Portsmouth area. The Respondent had written to the Tribunal stating that she was in agreement with the application and that she would be unable to attend the hearing.
- 3.2 Mr Shaw explained that although the condition of the premises had been steadily deteriorating for some time and that he had been trying to engage the Respondent in discussions about the work that needed to be done to no avail, matters had become suddenly more urgent when the upstand above the right hand bay window had fallen down. It was fortunate that it had not fallen and injured anyone. The condition of the other upstand was critical and in a dangerous condition. It would be necessary to erect scaffolding to carry out the necessary work and whilst the scaffolding was in place it was sensible to do repair work to the surface above the bays and the other external decorating.
- 3.3 The specification prepared by Mr Batten included the following work:-
- a) the erection of scaffolding
 - b) removal of ornate stonework above the lintels on both bays
 - c) remove metal trays and construct new flat roofs sloping to the front and felted
 - d) supply new guttering around the new roof
 - e) repair the front porch
 - f) provide new guttering and downpipe to the porch
 - g) make good damage to stonework on the bays

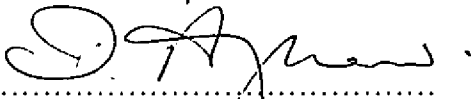
- h) provide a new lintel over the kitchen window
 - i) overhall all slate tiles to the main roof
 - j) carry out external decoration
- 3.4 Mr Batten estimated the cost of the work to be in the region of £5000 subject to what was discovered when they were able to have a closer inspection once the scaffolding had been erected. Mr Shaw stated that he intended to obtain some competitive estimates but he anticipated that his own company would be the cheapest. Under her lease the Respondent was obliged to contribute one half of the cost of the repair work.

4. The Determination

The Tribunal considered that the stonework above the upper lintels was in a dangerous condition and could come away and fall to the ground at any moment. This was sufficient justification for that work to be done urgently and for scaffolding to be erected for that purpose. It is sensible for the work to be done over the flat roofs of the bays at the same time as it would be more economical to do this work whilst the scaffolding is in position rather than to have to re-erect scaffolding at a later time after the Section 20 procedure had been effected.

Accordingly the Tribunal decided that it was reasonable for them to dispense with the Section 20 requirements for the works proposed above at a cost of approximately £5000.00

Dated this 9th day of April 2010


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D. Agnew BA LLB LLM
Chairman