

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

Case No: CHI/19UJ/LDC/2010/0006

Between:

Tim Townsend (Applicant)

and

Mr P Hinkley [Studio Flat]
Mr M Rogers [Flat 1]
Mr L Usherwood & Mrs N Thomas [Flat 2]
Mr and Mrs P Bentley [Flat 3] (Respondents)

Tribunal: Mr D Agnew BA LLB LLM Chairman
Ms. R. Bray Bsc MRICS
Mr J Mills

**IN THE MATTER OF AN APPLICATION UNDER SECTION 20ZA
LANDLORD AND TENANT ACT 1985**

DECISION AND REASONS:

1. Decision

The Tribunal refuses the application to dispense with the consultation requirements for undertaking works of repair as required under Section 20 of the Landlord and Tenant Act 1985. The reasons for the Tribunal's decision are set out below.

2. The Application

- 2.1 On 9 February 2010 the Applicant, Mr Tim Townsend who is the head lessor of the premises at 13 St Thomas Street Weymouth DT4 8EW (the Premises) applied for an order under Section 20ZA of the Landlord and Tenant Act 1985 (the 1985 Act) for a dispensation from undertaking the consultation requirements laid down by Section 20 of the 1985 Act before carrying out works of repair which would result in a charge to each individual flat in the block in excess of £250.00.
- 2.2 A copy of the application was sent to each of the four lessees of flats in the premises.

2.3 The application was listed for hearing on 19 March 2010 at The Pavilion Weymouth Avenue Dorchester at 11.00 am.

3. The Inspection

3.1 The Tribunal inspected the premises immediately preceding the hearing on 19 March 2010. They met at the premises Mrs Bentley who is one of the owners of flat 3. She invited the Tribunal to inspect flat 3 in particular.

3.2 13 St Thomas Street is a period building situated right in the centre of Weymouth's shopping area. It comprises commercial premises on the ground floor with four converted flats above, one flat on each floor. The Tribunal could see from street level that the main part of the roof at the front of the building was covered with slates that were in a tired condition. The top floor flat has a dormer window to the front elevation. This dormer window has a flat felted roof.

3.3 Mrs Bentley showed the Tribunal the ceiling in the living room of the top floor flat. At the point where the flat roof joins the pitched part of the roof there is a crack in the ceiling close to a beam and a water stain mark indicating that there has recently been water ingress into the room at this point. Although it was raining at the time of inspection the ceiling in the area of the water stain was nevertheless dry.

3.4 Mrs Bentley also showed the Tribunal a damp stain mark on the wall near to the ceiling of the bedroom of the top floor flat. The Tribunal understands that this room had been decorated internally in about October or November of 2009. The emulsion paint showed signs that dampness was beginning to come through the plaster at that point.

3.5 Mrs Bentley kindly provided a ladder for the Tribunal to look through a hatch in the ceiling area above and behind the dormer roof. The Tribunal noticed that the underside of the roof was covered with wooden shingles. There was a gulley just above ceiling level which was cluttered with a lot of debris but both the wooden shingles and the gulley appeared to be dry on the day of the Tribunal's inspection. Unfortunately it was not possible to see towards the front edge of the pitched roof where it joins with the flat roof of the dormer window. The Tribunal were therefore not able to discern where the water was entering the interior of the building.

4. The Hearing.

4.1 The Applicant attended the hearing. He told the Tribunal that on the evening of 13/14 November 2009 there had been a storm which resulted in water coming into the top floor flat at the premises. The landlord arranged for Haydn Williams Roofing to repair the leak. An insurance claim was made and repair work was carried out by Haydn Williams Roofing to the flat roof area above the dormer window of the

top floor flat. This work was done at no cost to the lessees. Unfortunately, however, on Christmas Eve the lessee of the top floor flat again contacted the Applicant to report that water was coming into the top floor flat. The Applicant arranged for Haydn Williams Roofing to re-inspect. They concluded that the problem did not lie with the flat roof above the dormer window of the top floor flat, which they had recently repaired, but with the higher level roof.

- 4.2 The Applicant has served Stage 1 Section 20 notices and has kept the lessees informed. He has now received estimates from Haydn Williams Roofing, from J Marks and Sons and from Ultimate Roofing. The price quoted by Haydn Williams Roofing is £1,800 plus VAT (total £2,115). In addition the cost of scaffolding would be £1067 plus vat. The J Marks and Sons quotation was £2,600 plus VAT (total £3,055) and the Ultimate Roofing quotation was £1,919.50 plus VAT (total £2,255.41). Unfortunately, however, the three quotations are not all given on the same basis. The Ultimate Roofing quotation does not include the cost of the erection of scaffolding and neither the Haydn Williams Roofing nor J Marks and Sons quotations include any work to the small rear dormer including slate work which the Ultimate Roofing quotation does include. Mr Townsend said that it was his intention to obtain further quotations so that all three would be provided on the same basis, so that the lessees could easily compare one with another.
- 4.3 As it was the Applicant's wish to proceed with the work as quickly as possible he had applied to the Tribunal to dispense with Stage 2 and onwards under the consultation procedure in order to try and save a little time. He recognised, however, that Stage 1 was about to be completed on 22 March 2010 and that even if a dispensation was not granted, he should be in a position to proceed by approximately 27 April in any event.

5. The Determination

- 5.1 Although the Tribunal recognises that any water ingress into the interior of a flat is an unpleasant experience for the occupier and does require repairs to be undertaken to remedy the defect the Tribunal did not consider that in this particular case the water ingress was of such seriousness that would make it reasonable for the Tribunal to dispense with the Section 20 consultation requirements. Parliament has specifically laid down these consultation requirements to safeguard lessees who are going to be asked to contribute towards the cost of repairs and to give them the opportunity to participate in the choice of contractor and the amount being spent on effecting the repairs. The Tribunal therefore has to weigh up on the one hand the desire of the landlord to proceed in effecting the repairs as quickly as possible with the interests of all the lessees who are going to be asked to contribute towards the cost of the repairs. In this particular case the Tribunal did not consider that the leak was sufficiently serious for it to require remedial action before the consultation period had expired. This was

not an emergency situation and the water ingress did not appear to constitute any danger to either the building or its occupants. The problem had arisen getting on for three months ago and even if the Section 20 consultation procedure is undertaken as laid down by statute there will be a further delay of only about four to six weeks.

- 4.2 In all the circumstances the Tribunal did not consider that it was reasonable to dispense with the Section 20 consultation procedure and that therefore the application under Section 20ZA would be refused.

Dated this *24th* day of *March* 2010


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D. Agnew BA LLB LLM
Chairman