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**H M COURTS & TRIBUNALS SERVICE
LEASEHOLD VALUATION TRIBUNAL**

Case Reference: LON/00AJ/LDC/2011/0127

**DECISION OF THE LEASEHOLD VALUATION TRIBUNAL ON
APPLICATIONS UNDER SECTION 20ZA OF THE LANDLORD & TENANT
ACT 1985**

Applicant: G T Properties

Respondents: (1) Mr P Jones (Ground Floor Flat)
(2) Mrs A Zenina (First Floor Flat)

Property: 137 Darwin Road, London, W5 4BB

Date of Application: 5 December 2011

Date of Determination 16 January 2012

Leasehold Valuation Tribunal
Mr I Mohabir LLB (Hons)

Introduction

1. This is an application made by the Applicant under section 20ZA of the Landlord and Tenant Act 1985 (as amended) (“the Act”) to dispense with all/some of the consultation requirements imposed on a landlord by section 20 of the Act and the Service Charge (Consultation Requirements) England Regulations 2003.
2. This application related to the proposed work to carry out urgent remedial repairs to staircase in the property known as 137 Darwin Road, London, W5 4BB (“the property”).
3. The factual background of this application can be stated shortly. Apparently, on or about June 2011, the Second Respondent reported to HML Hathaways, the managing agents, that the internal staircase at the property was coming away from the internal wall. It seems that the cost of the repairs would not be met under the buildings insurance policy.
4. Subsequently, Hathaways instructed a Surveyor to carry out an inspection of the staircase. This was carried out by Asprey Property Services Ltd who inspected the staircase on 7 November 2011. The report that was provided by Asprey found that the stairs had been subject to movement and there was a 10mm gap on the flank structural walls side between the stair treads and the right hand stair string. This was particularly evident at steps 7, 8, 9 and 10. The report gave two possible explanations for this movement and recommended that the necessary repairs be carried out to the stairs.
5. On 5 December 2011, this application was made by the Applicant to dispense with consultation required by section 20 of the Act in relation to the proposed repairs on the basis that because the present condition of the stairs pose a serious health and safety risk to the occupiers. In the event that the stairs collapsed, access could not be gained to the first floor flat and there is substantial risk of damage or injury to occupiers of the ground floor flat.

The Law

6. Section 20ZA of the Act provides the Tribunal with a discretion to dispense with the statutory consultation requirements imposed by section 20 of the Act and the Regulations where it is reasonable to do so having regard to all the circumstances.

Decision

7. The determination of this matter took place on 16 January 2012. There was no oral hearing as the Applicant was content for the Tribunal to make its determination solely on the basis of the evidence filed. Equally, neither Respondent had requested a hearing nor did they oppose the application. The Tribunal did not inspect the property.
8. The Tribunal granted the application on the terms sought for the following main reasons:
 - (a) The survey report prepared by Asprey confirmed the disrepair to the internal staircase and the requirement to have the necessary repairs carried out.
 - (b) The Tribunal accepted the Applicant's assertion that there is a real and present risk of the staircase collapsing with attendant damage to the property and/or injury to the occupiers.
 - (c) Materially, both of the Respondents, who are the lessees of the first and ground floor flats, expressly supported this application to dispense with consultation for the proposed repairs.
 - (d) Potentially, the Respondents are not financially prejudiced by granting the application because they are afforded the statutory protection of section 19 of the Act.
9. Accordingly, for the reasons stated above, the Tribunal grants this application. It should be noted that this decision does not concern the issue of whether the

cost of repairing the staircase are reasonable. In the event that the Respondents consider the costs that have been incurred are unreasonable, they can be separately challenged by bringing an application under section 27A of the Act.

Dated the 16 day of January 2012

CHAIRMAN..... J. Mohabir
Mr I Mohabir LLB (Hons)