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**FIRST-TIER TRIBUNAL
PROPERTY CHAMBER (RESIDENTIAL
PROPERTY)**

Case reference : LON/00AE/LDC/2018/0006

Property : 39 St Pauls Avenue, London NW2 5SS

Applicant : Northumberland & Durham Property Trust Ltd

Representative : Town & City Management Ltd

Respondents : Harsha Popat

Type of application : To dispense with the requirement to consult lessees about major works

Tribunal : Judge Nicol
Mr WR Shaw FRICS

Date of decision : 7th March 2018

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to the proposed fire safety works at the subject property.

Reasons

1. The subject property is a converted house with four flats. The Applicant is the freeholder and has retained three of the flats. The Respondent is the lessee of the remaining flat.
2. The Applicant's agents, with the assistance of a fire risk and health & safety assessment from Mr Mike O'Flaherty and Mr Luke Rowlands of Grainger plc, have identified that the subject property does not comply with the latest fire safety requirements. They now wish to address this urgently.

3. The agents anticipate that the works would incur expenditure in excess of the amount which would trigger the consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003. Although they took the step of sending out the first required consultation letter on 20th November 2017, they believe the urgency of the works means that they do not have time for full compliance with the statutory requirements and have applied under section 20ZA for dispensation.
4. The Tribunal made directions on 22nd January 2018. Accordingly, the Applicant provided a bundle of relevant documents but the Respondent has not replied.
5. The Tribunal was provided with the lease for the Respondent's flat. Under that lease, the Applicant is obliged to maintain the property and keep it insured and the Respondent is obliged to pay a proportionate share of the costs incurred.
6. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
7. The Tribunal is satisfied that the problem has been properly identified and that remedial works are urgent enough to justify not going through the full consultation process. Given the lack of objections or any proven prejudice to any lessee, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

Name: NK Nicol

Date: 7th March 2018