



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

Case reference : **LON/00AF/LDC/2019/0124**

Property : **Nightingale Court, 53 Church Road,
London SE19 2TJ**

Applicant : **Nightingale Court RTM Company
Limited**

Respondents : **The leaseholders of the Property as
per the application**

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

Tribunal member : **Judge P Korn
Mr C Gowman MCIEH**

Date of decision : **2nd September 2019**

DECISION

Decision of the tribunal

- (1) The tribunal dispenses with the consultation requirements in respect of the qualifying works which are the subject of this application.
- (2) No cost applications have been made.

The application

1. The Applicant seeks dispensation under section 20ZA of the Landlord and Tenant Act 1985 (“**the 1985 Act**”) from the consultation requirements imposed on the landlord by section 20 of the 1985 Act in relation to certain qualifying works, to the extent that those requirements have not already been complied with.
2. The Property is a purpose-built block of 20 flats.
3. The application concerns qualifying works to repair the lift.

Paper determination

4. In its application the Applicant stated that it would be content with a paper determination if the tribunal considered it appropriate. In its directions the tribunal allocated the case to the paper track (i.e. without an oral hearing) but noted that any party had the right to request an oral hearing. No party has requested an oral hearing and therefore this matter is being dealt with on the papers alone.

Applicant’s case

5. The Applicant states that the lift is faulty. The current components are obsolete and a new lift control panel and a rewire are required due to the type of cabling.
6. The work is urgent because it is a retirement housing block and elderly residents living on the upper floors need to be able to get up and down safely.
7. A quotation for the work has been obtained and a copy has been supplied to the tribunal, but no formal consultation with leaseholders has been carried out due to the urgency of the work.
8. The Applicant has confirmed in writing that it has notified all leaseholders of its application for dispensation.

Responses from the Respondents

9. None of the Respondents has opposed the application or made any other representations.

The relevant legal provisions

10. Under Section 20(1) of the 1985 Act, in relation to any qualifying works *“the relevant contributions of tenants are limited ... unless the consultation requirements have been either (a) complied with ... or (b) dispensed with ... by ... the appropriate tribunal”*.
11. Under Section 20ZA(1) of the 1985 Act *“where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works..., the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements”*.

Tribunal’s decision

12. We note the Applicant’s rationale for applying for dispensation, namely that the lift repair work is urgent because elderly residents living on the upper floors of the block are dependent on the lift for access to their respective flats. We also note that none of the Respondents has opposed the application for dispensation.
13. We are satisfied that the works are urgent. It is arguable that the Applicant should at least have carried out a stage 1 consultation, but we do not consider this by itself to be a sufficient reason to refuse to grant dispensation, in circumstances where the work is clearly urgent and none of the Respondents has opposed the application or made any other representations. There is also no evidence before us that any of the Respondents has been prejudiced by the failure formally to consult.
14. Therefore, we are satisfied that it is reasonable to dispense with the formal consultation requirements in respect of the qualifying works which are the subject of this application. In addition, in the absence of any evidence that the Respondents have been prejudiced by the failure to go through the full consultation process, there is no question of the Respondents being entitled to compensation for prejudice suffered.
15. For the avoidance of doubt, this determination is confined to the issue of consultation and does not constitute a decision on the reasonableness of the cost of the works.

Name: Judge P Korn

Date: 2nd September 2019

RIGHTS OF APPEAL

- A. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) a written application for permission must be made to the First-tier Tribunal at the regional office dealing with the case.
- B. The application for permission to appeal must arrive at the regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
- C. If the application is not made within the 28 day time limit, such application must include a request for extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
- D. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal, and state the result the party making the application is seeking.