



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

Case Reference : **LON/00AK/LDC/2019/0084**

Property : **4 North End Road, Edmonton,
London N9 7QY**

Applicant : **SOUTHERN LAND SECURITIES
LIMITED**

Representative : **TOGETHER PROPERTY
MANAGEMENT LIMITED**

Respondent : **(1) KEVIN LEFLEY
(2) NEVILLE ASPHALL**

Representative :

**Date of Receipt of
Application** : **20th May 2019**

Date of Directions : **29th May 2019**

Tribunal Judge : **Judge Shaw**

Date of Decision : **3rd July 2019**

DECISION

Introduction

- (1) This case involves an Application received on 20th May 2019, and made pursuant to the provisions of section 20ZA of the Landlord and Tenant Act 1985 (“the Act”). The Application is made by Southern Land Securities Limited, through its Managing Agents, Together Property Management (“the Applicant”) in respect of the property situate and known as 4 North Road, Edmonton, London N9 7QY (“the Property”).
- (2) The property comprises a converted end of terrace freehold house, containing 2 leasehold flats on the ground and first floors, of which the Respondents, Kevin Lefley and Neville Asphall are the leasehold owners respectively. There is a shared courtyard to the front and shared use of a garden area at the rear. The Application is for an Order from the Tribunal, made pursuant to the Act, for a determination dispensing with all or any of the consultation requirements in relation to the relevant works. Those works are detailed in the application. Essentially, they consist of the supply and installation of a new timber fence with concrete posts at the rear of the property. The works are described in the document of DF Keane Building Contractors at page 55 of the bundle supplied by the Applicant. The works have already been carried out, in the sum of £1770.00 ex VAT, and accordingly this is a retrospective application for dispensation of the consultation provisions.
- (3) Directions were given swiftly after the issuing of the Application by the Tribunal on 29th May 2018. Part of those Directions required the Applicant to prepare a bundle of documents, and send copies to the Tribunal, and the Respondents, requesting them to indicate whether they objected to the order sought, and/or whether they required an oral hearing.

- (4) In the event, no objections in writing were received from either of the Respondent flat leaseholders and no-one has sought an oral hearing. Accordingly this determination is being made without the parties attending.

Analysis

- (5) The circumstances in which the application comes to be made are explained in the Applicant's Statement of Case appearing at page 41 of the bundle. On November 2018 the Environment and Operational Services Department of the London Borough of Enfield contacted the Applicant's agents, raising concern about the rubbish and general fly-tipping which was taking place in the garden at the rear of the property, which was causing a health risk. They required the Applicants to have the rubbish removed and to install a proper and effective fence to prevent any repetition. There are e-mails and photographs in the bundle, confirming the position.
- (6) The Applicant then began trying to check with whom lay the responsibility for this work, but the matter became pressing so far as the Environmental Health authorities were concerned, and on 12th December, the local authority described the position as "urgent" and threatened service of a Notice on the Respondent, the works not yet having taken place.
- (7) In the circumstances, there was not an opportunity for the Applicant to go through the consultation requirements in this case (the cost to each Respondent exceeding the statutory limit) and the works were soon after carried out and completed. Again there are photographs illustrating this in the bundle.
- (8) The Respondents have not submitted any statements or evidence in opposition to the application. However, it appears from the papers that one of the Respondents telephoned the Applicant's agents' offices, disputing the addition of the cost to the service charge account, on the basis that the rear

garden is not part of their demise, and not their responsibility. This was countered on behalf of the Applicant, by letter of 1st May 2019, placing reliance upon certain covenants in the lease there referred to (see page 69 of the bundle).

- (9) The Tribunal does not enter into this aspect of the dispute in the context of this application. The issue before the Tribunal is whether it was reasonable for the Applicant to go ahead and do this work without pursuing first the statutory consultation process (which would have taken several months). The Tribunal is so satisfied. There was a health and safety issue in this case and urgency brought about both by this aspect and the sanction of a formal notice which was being threatened by the local authority. The Tribunal is satisfied in the circumstances that it is reasonable to dispense (retrospectively) with the Consultation requirements, and so orders.
- (10) It should be emphasised and well understood by all parties, that the Tribunal is making no finding upon the issue of whether the point taken by the Respondents (to the effect that they have no liability for these costs under the lease) is well-founded or not. The Tribunal makes no finding on the questions of liability nor the reasonableness of the cost in this application; if this issue is not resolved between the parties, either side may make application for a determination under section 27A of the Landlord and Tenant Act 1985.
- (11) The Tribunal is satisfied that these works were urgently required, without the need for the full consultation process to proceed, and accordingly the Tribunal makes the Order requested, for the reasons relied upon by the Applicant, dispensing with the statutory consultation requirements.

Decision

- (12) For the reasons indicated above, the Tribunal is satisfied that this work was sufficiently urgent to justify dispensation being granted pursuant to the Act.

As already stated, the Tribunal is making no finding in the context of this dispensation order as to the reasonableness of these works either generally or specifically in relation to their cost. It is an order given exclusively in respect of the consultation requirements, and it is entirely open to the Respondents to revert to the Tribunal for a further determination, if so required, as to reasonableness and payability pursuant to the provisions of section 27A.

Conclusion

(13) For the reasons indicated above, the Tribunal grants the Application made in this case, and dispenses with the consultation requirements of section 20 of the Landlord and Tenant Act 1985, insofar as they relate to the works identified in the Application.

JUDGE SHAW

3rd July 2019