



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

Case Reference : **MAN/00CM/LDC/2019/0008**

Property : **34 & 35 Kestrel Close, Washington,
Tyne and Wear NE38 0EL**

Applicant : **Gentoo Group**

Respondents : **Mr C Hepworth**

Type of Application : **Landlord & Tenant Act 1985 – Section 20ZA**

Tribunal Members : **Ms C Hunter
Ms J Jacobs**

Determination date : **2 May 2019**

Date of Decision : **7 May 2019**

DECISION

Summary Decision

1. The Tribunal gives dispensation from the consultation requirements.

Application

2. This application has been made by Gentoo Group for dispensation from the consultation requirements imposed by Section 20 of the Landlord and Tenant Act 1985 ('the Act') with regard to works to the plywood deck to the roof to stop water ingress. The Applicant considers that the works are needed to be carried out urgently.
3. Directions were issued on 6 March 2019. Those directions made it clear that the application does not concern the issue of whether any service charge costs resulting from any such works are reasonable or indeed payable and it will be open to lessee to challenge any such charged by the Applicant.
4. Further to the Directions the Applicant provided bundles of documents. The Respondent did not provide any statement in response.

The Law

5. Section 20 of the 1985 Act limits certain service charges unless the consultation requirements in the section are complied with or dispensed with under section 20ZA is received. Section 20ZA provides:
 - (1) 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 or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.

The Facts

6. The case is concerned with 35 Kestrel Close that along with 34 Kestrel Close makes a single building. 34 Kestrel Close is not let on a long lease. While undertaking remedial works to the external timber staircase to the building the contractors found that the plywood deck of the roof to the staircase was rotten and needed to be replaced. The application includes photographs of the rotten timber.

7. In their application the Applicants explained why the works were urgent and dispensation.

‘We seek dispensation as the roof is partially stripped and will be susceptible to further damage from the wind and rain causing additional decay of the timbers below. The roof is more susceptible to damage from the wind as the cement verge has been removed which protects the roof tiles from uplift. There is also greater risks of slippage occurring on the staircase with possible increased dampness.’

8. The Respondent was notified of the works and the cost of them, by e-mail dated 6 February. The e-mail stressed the urgency of the work. The Respondent did not respond to the e-mail.

Decision

9. For the reasons set out in the Application we consider that it is reasonable to give dispensation.

C Hunter
Tribunal Judge
2 May 2019