



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

Case reference : **LON/00BK/LDC/2020/0113**

HMCTS code : **P:PAPERREMOTE**

Property : **8 Warrington Gardens, London W9 2QB**

Applicant : **8 Warrington Gardens RTM Company Limited**

Representative :

Respondent : **(1) Mr. P. Walker
(2) Mr. M. Stera
(3) Ms. E. C. Colverd
(4) Mr. N. R. |W. Colverd.**

Representative :

Type of application : **An Application for a Dispensation Order pursuant to section 20ZA of the Landlord and Tenant Act 1985**

Tribunal members : **JUDGE SHAW**

Venue : **PAPER DETERMINATION**

Date of decision : **14th October 2020**

DECISION

Covid-19 pandemic: description of hearing

This has been a remote hearing on the papers which has not been objected to by the parties. The form of remote hearing code and description was: P:PAPERREMOTE. A face-to-face hearing was not held because none of the parties requested such a hearing, and all the issues could be determined in a remote hearing, on paper. The documents submitted to the Tribunal will, as necessary, be referred to below, and all papers submitted have been perused and the contents considered. The order made is described at the end of these reasons.

Decision of the tribunal

The tribunal determines that an order dispensing with the consultation provisions under section 20 of the Landlord and Tenant Act 1985, is appropriate in this case, and makes such order.

The application

1. The application is dated 21st June 2020 and the Applicant seeks a determination pursuant to s.20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”).
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The hearing

2. The Applicant sought a Paper Hearing, which was, as stated above, not objected to by the Respondents.

3. The background

4. The property which is the subject of this application is 8 Warrington Gardens, London, W9 2QB (“the property”). It comprises a semi-detached house, converted into 3 flats. The Applicant is the Right to Manage company, presumably owned and directed by the leaseholders, or some of them, and who are also, wearing different hats, the Respondents. It is understood that Mr Stera is the leaseholder of the ground floor flat, and that Mr Walker owns the flat above on the first floor, while Mr and Mrs Colverd (who have effectively initiated this application) own and occupy the uppermost flat.

The Issues

5. The sole issue in this case is whether the tribunal is satisfied that it is reasonable for the tribunal to dispense with the consultation provisions (section 20 of the Act) which would otherwise have applied to the qualifying works at the property, as described below.

The tribunal's decision

6. The tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the roof works set out in the document at section 3.2 of the Applicant's bundle, wherein the works are described "**complete re-roof, consisting of new ridge tiles, all necessary chimney maintenance, GRP on flat roof.**" A dispensation order to this effect is therefore made, as set out below.

Reasons for the tribunal's decision

7. A full chronology and statement have been included by Ms Colverd in the bundle she has prepared, and no purpose would be served by repeating that material in full herein. Suffice it to say that during 2019, she asserts that works were carried out to the flat roof at the property, but not the pitched part of the roof. She contends that in laying the plastic covering to the flat roof, ridge tiles were removed from the pitched roof, which were not securely replaced. This led to several leakages into the upper flat (her flat) culminating in mid-June with rain seeping through the ceiling, and, dangerously, penetrating through electrical light fittings – giving obvious rise to a fire and health hazard. After an abortive attempt at a patching repair, contractors were urgently engaged to carry out a full roof renewal. Given the urgency of the situation, there was no time to comply with the section 20 procedure, and the work was started on 23rd June, and has presumably since been completed. The cost of the work was £6500.
8. Directions in this case were given on 28th August, and the Respondents (effectively, Mr Walker and Mr Stera) were directed to submit a statement of their case by 14th September. Both of them failed to do so, The Respondents were given the usual notice of this application and no objections have been raised by them. Indeed, no representations to the tribunal of any kind have been received from Mr Walker or Mr Stera. This is curious, because in an e-mail of 20th June, Mr Walker did express disquiet that he had been given short notice of the works. He requested compliance with section 20, or an explanation for non-compliance. Two days later, this application to the tribunal was made. On 12th September Mr Walker, having been given notice of the application, completed the pro forma required if the application is to be opposed. He indicated that he did not wish to attend in person if there were an oral hearing, and that he had not sent a statement to the landlord, but that "I will." As already indicated, no such statement has been received by the Tribunal, either from Mr Walker or Mr Stera.
9. The situation is not ideal, because the tribunal would have found helpful, some corroborative evidence of the urgency in this case, coupled with a proper and complete schedule of the works to be carried out. The identity of the contractor does not appear on the partially obscured estimate with which the tribunal has been provided. However, there has been no proper evidence to oppose the account of Ms Colverd, and, on the evidence before it, the tribunal accepts her account for the purpose of establishing the urgent need for repairs, and the potential health and fire hazard. The tribunal makes the order as requested, which relates solely to the unopposed request for dispensation in relation to the

consultation procedure. The Respondents should be aware that this decision in no way prejudices their entitlement at a later stage to challenge, if they so wish, either the liability to pay or reasonableness or cost of the qualifying works, pursuant to section 27A of the Act.

10. DECISION

For the reasons set out above, the tribunal determines that it is reasonable to dispense with the consultation provisions of section 20 of the Act, pursuant to section 20ZA thereof, and in relation to the roof works described at paragraph 6 of this decision. A dispensation order to this effect is therefore made.

Name: JUDGE SHAW

Date: 14th October 2020

Rights of appeal

By rule 36(2) of the Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013, the tribunal is required to notify the parties about any right of appeal they may have.

If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber), then a written application for permission must be made to the First-tier Tribunal at the regional office which has been dealing with the case.

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.

If the application is not made within the 28-day time limit, such application must include a request for an extension of time and the reason for not complying with the 28-day time limit; the tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed, despite not being within the time limit.

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.