

LON/OOBA/LDC/2007/0019

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985 SECTION 20ZA

ADDRESS OF PREMISES: 29 PELHAM ROAD
WIMBLEDON
LONDON
SW19 1SX

LANDLORD: RMB TRADING LTD.

TENANTS: THE LEASEHOLDERS OF
29 PELHAM ROAD, WIMBLEDON,
LONDON SW19 1SX

MR. A MEGHANI	FLAT A
MR. N. WALE	FLAT B
MR. B. J. TAYLOR	FLAT C

TRIBUNAL : Ms F. Dickie (Chairman)
Mr. L. Jarero BSc FRICS

PRELIMINARY

1. This Application was brought by Hillcrest Estate Management Ltd, managing agent for 29 Pelham Road, on behalf of the Landlord RMB Trading Ltd. Mr. A. Jenner attended the hearing on behalf of Hillcrest Estate Management Ltd. None of the Tenants was represented, nor had any of them responded to the Application.
2. The Applicant seeks dispensation from the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 as amended by the Commonhold and Leasehold Reform Act 2002 ("the Act") in respect of works to remedy dampness affecting the basement flat (flat A).
3. Section 20ZA(1) of the Act provides that where such an application is made in respect of qualifying works the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
4. The Application is dated 13th March 2007. Directions were given by the Tribunal on 23rd March 2007, including a direction for an oral hearing to take place on 27th April 2007.

THE EVIDENCE

5. The property is a semi-detached Victorian house converted into 3 flats. The Tribunal did not carry out an inspection. The Landlord obtained a damp survey report prepared by Waylett & Co., Chartered Building Consultants, dated 22nd February 2007. The conclusions in that report included that "There is evidence of "dry rot" and "wet rot" fungal attack that should be dealt with urgently before it causes further damage". It also concluded the principal causes of damp are penetrating damp and condensation. A provisional budget of £29,000 was advised, to cover works associated with the penetrating damp (£18,000) and the internal condensation (£11,000).
6. Mr. Jenner said that a copy of that report had been served on each of the 3 Tenants (though only a copy of the correspondence enclosing it to Mr. Meghani was produced in evidence). A CCTV survey of the drains was recommended. Mr. Jenner said this had not yet been carried out and that he understood a possible defect with the drains could be contributing to the damp.
7. It was submitted by Mr. Jenner that the works were urgent because Mr. Meghani was pressurising him to do the work as soon as possible. He said that the flat was uninhabitable and that Mr. Meghani was losing income because he could not rent the flat until the work was complete.
8. Mr. Jenner said that all the Tenants had been kept informed, and had been asked to propose contractors (though none had done so). He explained that so far he had obtained 2 verbal estimates (for £75,000 and £41,000 respectively), but no written estimates had been received to date. No part of the formal statutory consultation process had been carried out and by the time of the hearing no work had actually commenced to the property.

DECISION

9. The Landlord has not identified in the evidence all of the problems with the building – in that the CCTV survey has not been carried out and any drainage defect which might be contributing to the damp (and which may be covered by insurance) has not been identified. The full extent of the work, and associated costs, is therefore still unknown.
10. A proportion of the work and costs set out in the surveyor's report relates to matters which are the responsibility of the Leaseholder of the basement flat, and not the Landlord's under the terms of the Lease. The Landlord has not identified for the Tribunal (or indeed for the Tenants) the extent or cost of the work which fall within the

Landlord's obligations and to which they will be required to contribute. The verbal estimates obtained so far are much higher than the indicative costings supplied by the surveyor.

11. The Tribunal appreciates that Mr. Meghani is losing rental income whilst this work is pending. The Tribunal is not satisfied however that the work is sufficiently urgent to justify dispensation with the statutory consultation requirements, particularly when balanced against the interests of all the Tenants in the building who will be required to contribute to the significant cost.
12. The Tribunal refuses the Landlord's application for dispensation with the consultation requirements imposed by section 20 of the Act, not being satisfied that it is reasonable to make a direction to dispense.

Signed


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Fiona Dickie, Chairman

Dated

27th April 2007