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**RESIDENTIAL PROPERTY TRIBUNAL SERVICE
DIRECTIONS BY LEASEHOLD VALUATION TRIBUNAL for the NORTHERN
RENT ASSESSMENT PANEL**

LANDLORD AND TENANT ACT 1985 – SECTION 20ZA

Property: 27 Sackville Street, Manchester M1 3UZ

Applicant: Baa Bar Limited
Represented by: RMG Ltd

Respondents: Mr & Mrs Calder (Flat 1)
Mr L M Dallow (Flat 2)
Ms S Hill (Flat 3)
Dr CC Leyser & Dr C F Cooper (Flat 4)
Mr D P Carden (Flat 5)
Mr G J Smith (Flat 6)
Miss L Addison (Flat 7)
Mr Wheatley (Flat 8)
Baa Bar Ltd (Ground and Lower Ground Floor)

Tribunal: Mrs E Thornton-Firkin
Mr D Bailey

Decision of the Tribunal

The Tribunal grants dispensation from the requirements of Section 20 of the Landlord and Tenant Act 1985 (The Act) with regard to the works to the property shown in Thomason's specification and schedule dated 8th August 2012.

Application and Preliminary

1. This is an application made by Residential Management Group Limited (RMG) on 15th October 2012, for the dispensation of the consultation requirements imposed by Section 20 of the Act with regards to proposed urgent remedial works to the roof of the property.

2. The only issue for the Tribunal to consider is whether or not it is reasonable to dispense with the consultation requirements. The application does not concern the issue of whether any service charge costs resulting from any such works will be reasonable or indeed payable and it will be open to lessees to challenge any such costs charged by the Landlord.
3. It was considered that the matter could be resolved by way of documentary and other written evidence and an inspection of the property and directions were issued to this effect on 22nd November 2012.
4. The application, detailed specification and three quotations for the work had been copied to the respondents and they had been asked to state any case in reply by 21st December 2012.
5. The Tribunal inspected the premises externally and flats 7 and 8 and the common parts internally on 14th January 2013.

Inspection

6. The Tribunal inspected the building externally but was unable to access the roof. The top floor flats, numbers 7 and 8, had extensive leaking internally from the parapet area of the roof on all four sides of the building. Some of the water was leaking into the kitchen area of flat 7 where there was an electrical supply and was also penetrating into the flats below the top floor.

Lease Terms

7. The specimen 99 years' lease for flat 3 between Riverside Housing Association and Jonathan Peter Carden was from 23rd July 1997. In clause 3 (2) (b) the leaseholder covenants to pay the service charge and clause 5 (3) (a) states that the landlord shall maintain, repair, redecorate and renew the roof, foundations and main structure of the building.

Law

8. The relevant law is to be found in the Landlord and Tenant Act 1985. Section 18 of the Act defines "service charge" and "relevant costs". The definition of "service charge" is "an amount payable by a tenant of a dwelling as part of or in addition to the rent".
9. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.

10. Section 20 of the Act reads as follows:-

"Limitation of service charges : consultation requirements

Where this section applies to any qualifying works.....the relevant contributions of tenants are limited.....unless the consultation requirements have either:-

- a. complied with in relation to the works or*
- b. dispensed with in relation to the works by.....a leasehold valuation tribunal*

This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount"

11. "The appropriate amount" is defined by regulation 6 of The Service Charges (Consultation Requirements) (England) Regulations 2003 as ".....an amount which results in the relevant contribution of any tenant being more than £250.00".
12. Section 20ZA of The Act gives the Tribunal jurisdiction to dispense if it is satisfied that it is reasonable to dispense with all or any of the consultation requirements in relation to qualifying works.

Submissions

13. The applicant's representative eventually provided the Tribunal with details of the applicant's interests in the property. The applicant had acquired the freehold and headlease of the building, the lease of flat 3, and the commercial premises on the ground and lower ground floors. As the lessor of the flats, the applicant had appointed RMG to administer the service charge.
14. RMG provided a copy of:-
 - a. schedule of works compiled by Thomasons Civil and Structural Engineers
 - b. quotation from Beara Properties
 - c. quotation from Groundlevel Ltd
 - d. quotation from Seddon Homes Ltd
 - e. pictures of damaged roof
 - f. pictures of apartments in evidence of damage to apartments below the roof
15. The lessees of flat 7, Ms C and L Addison, wrote that the roof had been in poor repair for several years and that Riverside (the previous head lessee) had spent a considerable amount of money on it. The present leaks started in the autumn of 2011 and were reported in a residents' meeting in October 2011 and reported repeatedly thereafter with no response until August 2012.

The lessees had also reported that the ingress of water had penetrated to the flat below.

Decision

16. The Tribunal can only make a decision with regard to the residential parts of the building as Section 18 refers to the "tenant of a dwelling". The lease does not define the proportions payable by each flat or any contribution paid by the commercial premises to the service charge but as the cheapest tender is £ 36,000.00 it is tolerably clear that each flat will contribute more than the £250.00 limit
17. It appears that RMG took its time to act once the leaks had been reported. If it took at least nine months to commission the schedule of works the matter would not appear to be urgent with time for the correct Section 20 procedure to have been carried out. It took a further two months after the quotations had been received for RGM to apply to the Tribunal. RMG have made no submission concerning the reason for the delay and why the matter became urgent. The Tribunal's inspection and examination of the photographs of the roof lead them to the conclusion that the matter should be dealt with urgently now. RGM did get three quotations for the works and the Tribunal hopes that after such a lapse of time the quotations will still stand and the work go ahead as soon as possible. For these reasons the Tribunal grant dispensation,

E Thornton-Firkin
Chairman of the Leasehold Valuation Tribunal
18 January 2013