



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

**Case Reference** : LON/00AF/LSC/2013/0016

**Property** : Flat 5, Audrey House, 4 Avington  
Grove, London SE20 8QX

**Applicant** : Audrey House Management  
Company Limited

**Representatives** : Ms Claire Tomkins and Ms Bridget  
Minogue

**Respondent** : Ms Dion Johnson

**Representative** : Not applicable

**Type of Application** : To dispense with consultation  
requirements under s.20ZA of the  
Landlord and Tenant Act 1985

**Tribunal Judge** : Ms N Hawkes

**Date and venue of  
Paper Determination** : 10 Alfred Place, London WC1E 7LR

**Date of Decision** : 31<sup>st</sup> March 2014

---

**DECISION**

---

## **Background**

1. The applicant, Audrey House Management Company Limited, has applied to the Tribunal under S20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") for dispensation from the consultation requirements contained in section 20 of the 1985 Act in respect of certain qualifying works to Audrey House, 4 Avington Grove, London SE20 8QX ("the Property").
2. The Property comprises a purpose built block of nine flats which are held on long leases. The freehold was bought by the applicant management company in October 2005 and all of the lessees, including the respondent, participated in the purchase.
3. This application is made in respect of a one off charge of £500 for repairs to the roof of the Property. The repairs to the roof were carried out in November 2013.
4. Directions of the Tribunal were issued on 3<sup>rd</sup> February 2014. The applicant has requested a paper determination. No application has been made by the respondent for an oral hearing. This matter was therefore determined by way of a paper determination on Monday 31<sup>st</sup> March 2014.
5. The Tribunal did not consider that an inspection of the Property would be of assistance nor would it have been proportionate to the issues in dispute.

## **The Applicant's case**

6. The applicant's representatives state in the application form that they were not aware that the limit above which statutory consultation is required is £250.
7. In summary, it is the applicant's case that:
  - a. the roof repairs which are the subject of this application were essential and urgent;
  - b. considerable effort was made to inform and consult the lessees before the work in question was carried out;
  - c. the lessees were invited to assist in the process of obtaining quotations;
  - d. quotations were obtained from a variety of companies none of which has any financial relationship with the applicant or the with applicant's director or secretary;

- e. an informal consultation took place; and
  - f. no prejudice has been caused by the applicant's failure to follow the full statutory consultation process.
8. The applicant's representatives also state that the respondent was not in communication with the applicant from the end of 2005 to October 2013 and that she has not disputed the charge of £500 for the roof works which has already been paid by the other lessees.
  9. Claire Tomkins, the lessee of flat 3, has volunteered to act for the applicant in matters relating to the respondent's flat. On 10<sup>th</sup> September 2013, she wrote to the respondent's mortgage lender regarding the proposed work and she attempted to contact the respondent at what she believed to be her work address. Ms Tomkins then emailed the respondent on 16<sup>th</sup> September 2013 regarding proposed work and the respondent's contribution to the costs.
  10. The respondent replied by email on 1<sup>st</sup> October 2013 stating that she would be in touch by the end of the month to discuss her plans to clear her arrears. She did not seek any further information in respect of the proposed roof repairs. Notwithstanding her email of 1<sup>st</sup> October 2013, no payments from the respondent have been forthcoming.

### **The Lessees' case**

11. The respondent has not filed any written representations in opposition to this application and she has not requested an oral hearing. The Tribunal received a telephone call from the respondent on 3<sup>rd</sup> February 2014 asking for information regarding the application. She is therefore clearly aware of this matter.
12. Although the leaseholder of flat 5 was named in the application form as the sole respondent, the Tribunal's decision on the issue of dispensation may affect other lessees. Accordingly, each of the leaseholders has been sent a form to complete stating whether they support or oppose this application and stating whether they wish the Tribunal to hold a hearing.
13. The Tribunal has received completed forms from five of the leaseholders stating that they support the landlord's application for dispensation and none of the leaseholders have objected to this application or requested an oral hearing.

### **The Tribunal's determination**

14. Section 20 of the 1985 Act provides for the limitation of service charges in the event that statutory consultation requirements are not met. The consultation requirements apply where the works are qualifying works (as is the case in this instance) and only £250 can be recovered from a tenant in respect of such works unless the consultation requirements have either been complied with or dispensed with. The consultation requirements are set out in the Service Charges (Consultation Requirements) (England) Regulations 2003.
15. Section 20ZA of the 1985 Act provides that where an application is made to the Tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works, the Tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.
16. Having considered this application and the evidence in support, the Tribunal finds that repairs to the roof were urgently required in 2013. By letter dated 9<sup>th</sup> July 2013, a surveyor instructed by the applicant stated that one of the lead flashings to the upper edge of the man-made slates needed to be repaired as soon as possible in order to prevent it from completely loosening and falling which could have caused injury or damage.
17. The Tribunal notes that none of the leaseholders has alleged that they have been prejudiced by the applicant's failure to follow the full statutory consultation procedure and finds as a fact that no prejudice has been caused to the leaseholders as a result.
18. The Tribunal determines, pursuant to section 20ZA of the Landlord and Tenant Act 1985, that it is reasonable to dispense with the statutory consultation requirements in respect of the 2013 roof repairs.
19. This decision does not concern the issue of whether any service charge costs are to be reasonable or payable.
20. The issue of whether the service charge costs for the works are reasonable and payable will be dealt with as part of a separate application (case reference LON/00AF/LSC/2013/0854).

Judge Naomi Hawkes

Date: 31.3.14