



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

Case reference : LON/00AG/LDC/2018/0019 & 0040

Property : 1 Carlingford Road,
London NW3 1RY

Applicants : Dean Rock
Alison Payne

Representative : ABC Estates

Respondents : Mr & Mrs L Green (Flat B)
Ms J He (Flat C)

Type of application : To dispense with the requirement to
consult lessees about major works

Tribunal : Judge Nicol

Date of decision : 13th March 2018

DECISION

The Tribunal has determined that the Applicant shall be granted dispensation from the statutory consultation requirements in relation to works to address ongoing water penetration through the roof at the subject property.

Reasons

1. The Applicants have made two applications, on 5th January and 6th February 2018. It is not clear why they made two applications since each application seeks the same relief. This decision covers both applications.
2. The subject property is a Victorian end of terrace house containing three flats. The Applicants are the freeholders and have retained one of the flats. The Respondents are the lessees of the other two flats. Somewhat confusingly, the flats are designated in the papers both by letter and number so that the top flat is referred to as both "C" and "3" at various points.

3. On 2nd January 2018 Storm Eleanor hit the area. On 3rd January 2018 Ms He reported that water was coming through the roof and had left her without electricity which meant no heating, hot water or washing machine. A contractor visited and advised that scaffolding would be needed. An electrician advised that 48 hours would need to pass to allow the electrics to dry out before he could do any work. The Applicant's agents contacted the insurers who agreed to pay for Ms He's re-housing for two days.
4. On 5th January 2018 the Applicant's agents sent out a letter in a format intended to comply with the consultation requirements under section 20 of the Landlord and Tenant Act 1985 and the Service Charges (Consultation Requirements) (England) Regulations 2003, informing the lessees of the need to carry out urgent works, with the assistance of scaffolding, to repair the roof.
5. On 9th January 2018 the Applicant obtained a quote from Kaloci & Co Ltd for £5,400 (inc VAT). This level of expenditure would trigger the aforementioned statutory consultation requirements. However, they believe the urgency of the works means that they do not have time for full compliance with those requirements and have applied (twice) under section 20ZA of the same Act for dispensation.
6. The Tribunal made directions on 18th January 2018. Ms Green completed the form provided to say she supported the application for dispensation. Ms He did not respond but it seems likely she would be supportive.
7. The Tribunal was provided with two leases under which the Applicant is obliged to maintain the property and keep it insured and the lessees are obliged to pay a proportionate share of the costs incurred.
8. In accordance with the Supreme Court's decision in *Daejan Investments Ltd v Benson* [2013] 1 WLR 854, the primary issue when considering dispensation is whether any lessee would suffer any financial prejudice as a result of the lack of compliance with the full consultation process.
9. The Tribunal is satisfied that the problem has been properly identified and that the need for remedial works is sufficiently urgent to justify not going through the full consultation process. Given the lack of objections or any proven prejudice to any lessee, the Tribunal is satisfied that it is reasonable to dispense with the statutory consultation requirements.

Name: NK Nicol

Date: 13th March 2018