



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

Case reference : **LON/00AY/LDC/2021/0150**

**HMCTS code
(paper, video,
audio)** : **P: PAPER REMOTE**

Property : **Flats 1-18 Spencer House, Albion
Avenue, London, SW8 2AQ**

Applicant : **The Mayor and Burgesses of the London
Borough of Lambeth**

Representative : **Homeownership Services**

Respondents : **5 Leaseholders at Spencer House**

Type of application : **Dispensation with Consultation
Requirements under section 20ZA
Landlord and Tenant Act 1985**

Tribunal member : **Judge Robert Latham**

Venue : **10 Alfred Place, London WC1E 7LR**

Date of decision : **16 August 2021**

DECISION

The Tribunal grants this application to dispense with the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 without condition in respect of the replacement of the heat exchanger which is part of the system that supplies hot water to Spencer House.

Covid-19 pandemic: description of hearing

This has been a remote hearing which has not been objected to by the parties. The form of remote hearing was P:PAPER REMOTE. The Directions provided for the application to be determined on the papers unless any party requested a hearing. No party has requested a hearing. The applicant has filed a bundle in support of the application.

The Application

1. The Tribunal has received an application from the London Borough of Lambeth (“the Applicant”), dated 26 May 2021, seeking dispensation from the consultation requirements imposed by section 20 of the Landlord and Tenant Act 1985 (“the Act”). The application relates to Spencer House, Albion Avenue, London, SW8 2AQ.
2. The Respondents are five leaseholders of the 18 flats in a purpose built block at Spencer House whose names are specified in “List A” annexed to the application form. The Applicant is seeking retrospective dispensation from the consultation requirements.
3. The qualifying works relate to a heat exchanger which serves Spencer House. The estimated cost of the works to replace the defective unit is £9,593.12. The reason for the emergency works was because the heat exchanger was leaking and causing the burner to fail. The defect was first reported on 14 January 2021. In order to comply with the landlord’s covenants under the leases and to ensure a continued service, the heat exchanger failure required urgent repairs. If the heat exchanger were to have burst, it would have caused flooding and denied the residents their supply of hot water.
4. 16 June 2021, the Tribunal issued Directions. On 24 June, these were amended. The Tribunal stated that it would determine the application on the papers, unless any party requested an oral hearing. No party has done so.
5. By 25 June, the Applicant was directed to send to each of the leaseholders by email, hand delivery or first-class post, copies of the application form (excluding any list of respondents’ names and addresses) and a copy of the directions.
6. On 22 June, The Applicant confirmed that it had served the Respondents on 21 June by first class post and emailed a copy where an email address is available.
7. By 13 July, any leaseholder who opposed the application was directed to complete a Reply Form which was attached to the Directions and email

it both to the Tribunal and to the Applicant. The leaseholder was further directed to send the applicant a statement in response to the application. No leaseholder has returned a completed Reply Form opposing the application.

8. On 10 August, the Applicant emailed the tribunal a bundle of documents in support of their application. The bundle includes a copy of the lease for Flat 2 and a quote from OCO Limited for the replacement of the hot water system, dated 15 January 2021, in the sum of £8,593.12. On 3 February (wrongly dated 2020), the respondent notified the lessee of Flat 2 that her liability was £695.92.

9. Section 20ZA (1) of the Act provides:

“Where an application is made to the appropriate tribunal for a determination to dispense with all or any of the consultation requirements in relation to any qualifying works or qualifying long term agreement, the tribunal may make the determination if satisfied that it is reasonable to dispense with the requirements.”

10. The only issue which this Tribunal has been required to determine is whether or not it is reasonable to dispense with the statutory consultation requirements. This application does not concern the issue of whether any service charge costs will be reasonable or payable.

11. The Tribunal is satisfied that it is reasonable to grant dispensation from the statutory consultation requirements. This is justified by the urgent need for the works. There is no suggestion that any prejudice has arisen. In the circumstances, it is appropriate to grant dispensation without any conditions.

12. The Directions made provision for the service of the Tribunal’s decision. The Tribunal will email a copy of its decision to the Applicant. The Tribunal directs the Applicant to send a copy to the five leaseholders by first class mail or by email.

Judge Robert Latham
16 August 2021

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 **by e-mail** 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.

If the tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).