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MAN/16UG/LDC/2007/0002

LEASEHOLD VALUATION TRIBUNAL
OF THE
NORTHERN RENT ASSESSMENT PANEL

DECISION OF THE LEASEHOLD VALUATION TRIBUNAL

LANDLORD AND TENANT ACT 1985
SECTION 20ZA

Property: Flats Nos. 1 – 14, Meadowcroft House, Storrs Park,
Bowness on Windermere, Cumbria LA23 3JG

Applicant: Leasecare Limited

Respondents: Mr and Mrs K Pullen (Flat 1), Miss A M Smith (2),
Mr and Mrs Appleton (3), Mr and Mrs Binks (4),
Mr J Brier (5), Mrs P A Robinson Swan (6),
Mr D Park (7), Mr Lightfoot (7), Mr and Mrs Barton (8),
Mr and Mrs Watson (9), Mr and Mrs Johnson (10),
Mr and Mrs E Clark (11), Mr and Mrs Crook (12),
Mr and Mrs Burton (13), Mr and Mrs A Wallen (14)

Tribunal: Mrs E Thornton-Firkin (Chairman)
Mr M Davey

DECISION of the TRIBUNAL

The Tribunal grants dispensation from the consultation requirements of Section 20 of the Landlord and Tenant Act 1985 with regard to drainage works required by notices served by South Lakeland District Council on 8 January 2007 and the Environment Agency on 11 January 2007.

Application and Preliminary

1. Leasecare Limited, the managing agent of Meadowcroft House, on behalf of Storrs Park Management Company Limited, applied to the Tribunal on 20 March 2007 asking for dispensation from the consultation requirements of Section 20 of the Landlord and Tenant Act 1985. The application stated that investigation works regarding drainage diversion and repairs had been carried out but the periods imposed by the notices served by the Authorities had expired. The works identified have to be implemented to avoid the possibility of prosecution. The application also stated that the time limits imposed and the works required had meant the consultation required by section 20 had not been possible.
2. No hearing was requested by any of the respondents and the Tribunal notified the parties that the matter would be dealt with on paper on 24 April 2007 and asked for any further written representations to be received by that date.

Lease Terms

3. The specimen lease for plot 13, Meadowcroft House was provided by the applicants. It stated that the lessee would "contribute and pay on demand a fair proportion of the costs and expenses mentioned and provided for in the Fourth Schedule" (clause 4.2).
4. The Fourth Schedule (clause 1.3) states the lessee will pay "the costs of and incidental to compliance by the lessor with every notice regulation or order of any competent local or other authority affecting the site or any part thereof".

Law

5. 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".
6. Section 19 of the Act limits the amount payable by the lessees to the extent that the charges are reasonably incurred.
7. 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 been 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

8. "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*".

Submission

9. The evidence before the Tribunal was the application form and specimen copy of the lease from the applicant which was copied to the respondents. No written evidence was received from any of the respondents.
10. No copies of the notices, specification or estimate of the works had been put forward in evidence. Any charges arising from the works are limited by section 19 to the extent that they are reasonably incurred. The Tribunal was not required to consider the costs under an application for dispensation from consultation.

Decision

11. The Tribunal considered that the lessor was acting properly in applying for a dispensation considering the urgent nature of the proposed works. The Tribunal granted dispensation from the consultation requirements of section 20 of the Landlord and Tenant Act 1985.

Elizabeth Thornton Firkin

Mrs E Thornton-Firkin
Chairman
24 April 2007