



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

<b>Case Reference HMCTS Code</b>	:	<b>CAM/00KA/LDC/2021/0009 V: CVP REMOTE</b>
<b>Property</b>	:	<b>Carolyn Court, Trinity Road, Luton, Beds LU3 2NF</b>
<b>Applicant</b>	:	<b>Elmbirch Properties Plc</b>
<b>Respondents</b>	:	<b>The Leaseholders</b>
<b>Type of Application</b>	:	<b>For dispensation of the consultation requirements under section 20ZA</b>
<b>Tribunal Member</b>	:	<b>Judge Wayte</b>
<b>Date of Decision</b>	:	<b>10 June 2021</b>

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**DECISION**

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**Covid-19 pandemic: description of hearing**

This has been a remote hearing by video, requested by one of the leaseholders, Mr Shah. A face-to-face hearing was not held due to the pandemic. The applicant had provided a hearing bundle, the contents of which I have noted. The order made is described below.

**The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the roof works carried out by the M & J Group in March 2021.**

## **The application**

1. The Applicant seeks an order pursuant to s.20ZA of the Landlord and Tenant Act 1985 (as amended) (“the 1985 Act”) for the dispensation of any or all of the consultation requirements in respect of urgent works to the roof at the property, to prevent further damage to flat 7, owned by Mr Shah.
2. Complaints were made to Remus Management, the managing agents, in September 2020. It would seem that no action was taken until the service of an abatement notice by Luton Borough Council on 21 January 2021. That led to an inspection by a surveyor on 22 January 2021 who prepared a schedule of works. Consultation commenced but the works were carried out in March 2021 before it had concluded, due to the ongoing damage to flat 7. The final invoice for £6,763.68 plus VAT was approved for payment on 23 March 2021.

## **The background**

3. The application was made on 23 March 2021. Directions were given on 13 April 2021, requiring the landlord to serve the application on the leaseholders. Only Mr Shah responded, objecting to the application on the basis that the application was inaccurate. He requested a hearing which was held by video on 10 June 2021.
4. At the hearing, the applicant was represented by Hazel Jordan, Billie Shuter and Kelsey Nott, all of Remus Management. Mr Shah represented himself. He confirmed that his objections were based on his complaint that the works should have been carried out earlier, following the report of leaks by his agent in September 2020. As a result of the delay his tenant had stopped paying rent since January 2021.
5. The tribunal explained that the issue in this case is only whether the consultation requirements of section 20 of the 1985 Act should be dispensed with. Given the nature of Mr Shah’s complaint, there was no prejudice caused to him by carrying out the works before the expiry of the consultation period, in fact that was in his best interests. Remus confirmed that the works had been covered by monies held in the reserve fund but that would not prevent Mr Shah bringing a separate application under section 27A of the Landlord and Tenant Act 1985 should he wish to challenge the cost of the works or pursuing any other legal route for compensation. Remus have offered to cover the lost rent from January to the end of March 2021 and have agreed to continue discussions after today to see whether an amicable settlement can be reached. They accept that the works should have been carried out earlier.

6. The Tribunal did not consider that an inspection was necessary, nor would it have been proportionate to the issues in dispute.

### **The Tribunal's decision**

7. The Tribunal determines that an order for dispensation under section 20ZA of the 1985 Act shall be made dispensing with all of the consultation requirements in relation to the works outlined above.

### **Reasons for the Tribunal's decision**

8. The tribunal has the jurisdiction to grant dispensation under section 20ZA of the 1985 Act "*if satisfied that it is reasonable to dispense with the requirements*".
9. The only opposition was by Mr Shah but as discussed, his objection was that the works should have been carried out even earlier, which is accepted by Remus Management. The tribunal is satisfied that the works were urgently required and properly authorised. In the circumstances it is appropriate to grant an order for dispensation.

**Name:** Judge Wayte

**Date:** 10 June 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 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).