



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

**IN THE COUNTY COURT at
Reading, sitting at Eastern
Residential Property First-tier
Tribunal, Cambridge County Court,
Novotel Reading Centre, Friars
Street, Reading**

Tribunal reference : **CAM/00MB/LIS/2021/0027 and
CAM/00MB/LDC/2022/0003**

Court claim number : **H5QZ84Eo**

Property : **Flats 77 and 115 Jago Court,
Newbury, Berkshire RG14 7EZ**

Applicant/Claimant : **Albion Place (Newbury)
Management Company Limited**

Representative : **Mr T Cowen - Counsel**

Respondents/Defendant : **Mr Sanjay Pawar and Mrs Shweeta
Sanjay Pawar**

Representative : **In person**

Tribunal members : **Judge Dutton & Mrs M Wilcox BSc
MRICS**

In the county court : **Judge Dutton & Mrs M Wilcox BSc
MRICS as assessor**

Date of hearing : **18 May 2022**

Date of decision : **7 June 2022**

DECISION

This decision takes effect and is 'handed down' from the date it is sent to the parties by the tribunal office:

Summary of the decisions made by the Tribunal

1. The following sums are payable by the Respondents on a joint and several basis to the Applicant by **15 July 2022**:

- (i) Service charges: £8,862;

Summary of the decisions made by the Court

- (ii) Legal costs as claimed: £780; are payable by the Respondents on a joint and several basis to the Applicant/Claimant by **15 July 2022**

- (i) Interest as pleaded in the sum of : £501.42. to be paid by **15 July 2022**

The proceedings

2. Proceedings were originally issued against the Respondents on 16 April 2021 in the County Court under claim number H5QZ84Eo. The Respondents filed a Defence dated 20 April 2021. The proceedings were then transferred to this tribunal by the order of District Judge Sophie Harrison dated 26 August 2021.
3. Directions were issued and the matter eventually came to hearing on 18 May 2022

The hearing

4. The Applicant landlord, Albion Place (Newbury) Management Company Limited was represented by Mr Cowen of counsel, instructed by Mr John Devlin of Horsey Lightly solicitors, who was accompanied by Mr Gary Kaxe of Henwick Properties, the managing agents and Mr Andrew Dunning MRICS of Bennington Green Limited building surveyors. The Respondent leaseholders appeared in person.

The background

5. The Respondents are the owners of Flat 77 and 115 Jago Court, Newbury, Berkshire RG14 7EZ (the Properties) under terms of leases as to 115 Jago Court dated 26th July 2005 and as to Flat 77 under a lease dated 27th October 2005. The terms of both leases are the same and it appears that they purchased Flat 115 in or about October of 2015 and Flat 77 in or about December of 2018.
6. An inspection was not requested, and it was not considered necessary in respect of the items that were in dispute.

7. Insofar as the leases are concerned, the Respondents do not appear to challenge the terms save only as to the question of service of notices which is relevant in respect of an application for dispensation from the requirements of section 20 of the Landlord and Tenant Act 1985 (the Act).
8. After discussion with the parties, it was agreed that we should deal with both matters together as the evidence in respect of both was inextricably entwined.
9. The development, as evidenced by the conveyancing plan attached to the lease relating to Flat 77, showed that there were eight blocks on the estate. Block A was a stand-alone property consisting of some nine flats. Blocks B and C were conjoined as were Blocks D and E. Block F was housing, as was Block H. A Block G was also flats.
10. The issue for us to consider is the re-roofing of the flat Blocks A, B, C, E, D and G.
11. For the Respondents it is said that there are in effect two issues for us to consider. The first is that the re-roofing works were not required or required to the extent which forms the basis of the Applicant's claim. The second element is whether the Applicant complied with the service provisions as set out in the lease, to which we shall refer in due course.
12. In the defence filed in the Court proceedings the Defendants say this. *"This matter is leasehold a dispute of unreasonable expenses planned by management company for replacement of entire roof which is going to cost over £500,000 to leaseholders. The cost of replacement roof due to original fault in the building is a matter of insurance company and building warranty and not part of lease agreements signed by leaseholders and as such costs should not be paid by the leaseholders."* The Defence then went on to refer to the Landlord and Tenant Act 1985 sections 19, 18 and 20C.
13. We then had in the papers before us the Respondents statement of case which gives background to the dispute confirming that the Respondents have always paid their service charges in full, on time for both flats. It appears, however, that in January of 2021 Mr Pawar received a telephone call from Mr Kaxe about payment of monies in respect of roofing works. There was it seems a somewhat brusque and short telephone conversation.
14. Further attempts by the Applicants to engage with Mr and Mrs Pawar appeared to be unsuccessful.
15. The Respondents statement then goes on to deal with the service of the section 20 documentation, which was admittedly by email, to which the

Respondents say they gave no consent. It is said that as a result of the notices not being served in accordance with the lease, this prevented the Respondents from making observations on the intended work.

16. The Respondents statement goes on the question the lack of evidence relating to actual leaks reported to flats and poses the question whether there really were leaks or was it condensation. Further reference is made to section 21 A of the Landlord and Tenant Act 1985 which we do not need to dwell on as that is not yet in force. However, the question of reasonableness was raised as to the need to replace the roof on three buildings being the conjoined Blocks B, C, D, E and G. Reference is made to advice received from solicitors and the view obtained by the Respondents that the Applicants objective was to re-roof all the buildings whether needed or not. There is also a suggestion that claims should have been made against the developer and in respect of insurance cover that should have been available given that these blocks were built sometime in the early 2000s given that the first lease is dated 2005.
17. It was asserted by the Respondents that the experts reports relied upon pointed out the defects in construction of the roof but did not highlight any damage caused to individual flats. Further, there appeared to have been no survey to Block G. The Respondents submission requested that we look at the actual problem in the flat and building, if any, rather than the defects in the original build.
18. A settlement agreement had been entered into by the directors of the Applicant company with the original builders, Barclay Homes (Oxford and Chiltern) Limited and the insurers Zurich whereby certain works were undertaken but the details of the settlement agreement were not, it is said by the Respondents, supplied to them and nor was there consent sought for the agreement to be entered into. The submissions then raised issues under the Companies Act 2006. It is said that the settlement agreement that was reached was a document that required part 20 consultation. This is of course in addition to the costs of the works for which the Applicants say such section 20 consultation took place.
19. The Respondents then raise issues concerning potential misrepresentation by the Applicant company at the time of their purchase of the flats in not disclosing that there was a defective roof and that roof replacement works were intended. Issues were raised by the Respondents as to the date that the problems first came to the attention of the Applicants. It is suggested by the Applicants that a defect to the roof was reported in 2006 but it is suggested on behalf of the Applicants that it was in 2011 that the issues came to light.
20. The re-roofing contract agreed by the management company had a two year warranty which was criticised as being too short a period for roof

replacement works and the submission then went on to raise issues concerning section 20C of the Act, paragraph 5A of schedule 11 of the Commonhold and Leasehold Reform Act 2002 and definitions of service charges and relevant costs on the Act itself. It ends with the following comments *“The Respondents would like the Tribunal to consider all the aspects mentioned above and strongly believe this additional service charge demand to replace the entire roof in all blocks is not payable by Respondents.”*

21. In the trial bundle for the service charge dispute running to some 348 pages we had the opportunity of perusing the Applicant’s brief reply to the contentions raised in the Court defence, which we have noted. In addition, there was within the bundle a Scott Schedule which raised the section 20 issue, the agreement entered into by the Applicants with the original builder, Barclay Homes (Oxford and Chiltern) Limited and Zurich Insurance Company, the allegations of breaches of the 2006 Companies Act and indeed the other issues raised in the response.
22. The Applicants relied on the witness statement of Garry Kaxe who is with Henwick Properties, the management company, and who is also the Company Secretary of the Applicant. We have noted all that is set out in that witness statement.
23. The other document which was included within the papers before us was an expert’s report for which leave had been granted by the Tribunal prepared by Mr Andrew Dunning MRICS a Chartered Building Surveyor of Bennington Green Limited. This was dated 24 January 2022. Again, we have had the opportunity of considering this report which included photographic evidence of the condition of the various roofs and explained the problems that had been encountered and the work required to put those right.
24. As a result of the Respondents challenge to the correct service of the section 20 notices but without prejudice to the Applicant’s contention that service was good, an application under section 20ZA of the Act was made and this was, as we have indicated above, considered by us at the same time.
25. The other parties will give us if we do not go into great detail in respect of the documentation which was before us, as it is of course common to both sides.
26. In addition to the above, Mr Cowen acting for the Applicants had provided us with submissions, again which we noted. This document is useful as a chronology, and it may be helpful if we picked out some of the relevant points in respect of the section 20 consultation and also the settlement agreement entered into with Barclay and Zurich. A copy of that settlement agreement was within the papers before us. It is said that this agreement was approved by a unanimous vote at an EGM

which in essence provided that the roof of Flat A should be replaced by Barclay but at the cost of Zurich but the remaining blocks should be the responsibility of the Applicant and thus the leaseholders. It is said that the Respondents did not attend the EGM although notice was sent to them, it seems by email.

27. In any event we gleaned from the papers that the section 20 consultation was started on or about 28th April 2020 when notices were sent out giving the leaseholders until 31st May 2020 to respond. The initial notice describes the works as to be the complete replacement of roofs on Blocks B, C, D and G (flats only and the roof on Block A has already been replaced).
28. On 12th October 2020 notifications of estimates were sent to the leaseholders which included A&CA Slattery Roofing which although not the lowest was recommended as a result of a tender analysis conducted by Bennington Green in July of 2020.
29. It is common ground that these notices were sent in what is referred to a Mr Kaxe as 'blind emails' meaning that the address of those leaseholders who have email addresses and to whom he had sent emails before, receive one message relating to items such as AGMs, EGMs and other general matters. The import of the witness statement from Mr Kaxe was that this was how the notices under section 20 were sent to the lessees and in particular to the Respondents. Individual emails are sent when documentation relating to the individual leaseholder is required, for example service charge demands.
30. Mr Kaxe made a lengthy witness statement which is included in both bundles but which we have studied in detail the one contained in the dispensation bundle as pages 14 onwards with another of exhibits.
31. The upshot of the voluminous documentation is that there are the following issues for us to determine:- 1. Was the section 20 notice validly served; 2. Was there a cost of replacement of the roofs reasonably incurred. Linked with this is the agreement entered into by the Applicants with the original developer and the insurers and an allegation that there was misrepresentation by the Applicants failing to disclose the need for roofing replacement when the tenants bought their flats in 2015 and 2018.
32. In response to these matters, we believe it is the Applicants primary case that the section 20 process was carried out appropriately but if that is not so then dispensation should be granted given the level of communication between the Applicant and Respondents and that the work was reasonable and required and that the cost of the works was not challenged.

The Hearing

33. At the hearing Mr Cowen told us that the dispensation application was made “just in case.” He proposed therefore to deal with the section 27A application initially and here the issue was whether or not the works were necessary. In the case there was clear expert evidence that showed that the roofing works were required and that there was in fact no challenge to the costs made by the Respondents.
34. In respect of the consultation process the issue we had to decide was whether service by email only was good service. It was pointed out to us that there are 95 flats and 20 houses, and no other leaseholder has raised an objection. It was also submitted that the company law issues raised by the Respondents were not relevant as far as we were concerned. It was Mr Pawar’s case that notice of the EGM had not been served on them apart from potentially by email and that as shareholders they were entitled to their say.
35. The evidence from the Applicants was given by Mr Kaxe in respect of the statements that he had made and also by Mr Andrew Dunning. Mr Kaxe confirmed that his statements were correct, and he stood by all that was said therein. He told us that correspondence was invariably sent to the leaseholders by email as the majority had requested this. There were some parties who either had no email address or objected and they were communicated by other means. He told us that when a new purchaser came to the development, they were asked to complete a form setting out their email details.
36. Mr Kaxe told us that the Respondents had paid all their service charges including the supplementary fund for roof works, which had been served on them by email. He questioned how they could have found out about the service charges and other costs unless they had emails which they had read.
37. He confirmed that he was not aware that there was any recall on the emails that he sent and that there were two addresses although it was Mrs Pawar’s address that was first used. He took us to pages in the bundle and in particular to an email of 11th April 2017 to Mrs Pawar’s address in which attachments were recorded as being the service charge breakdown and rights and other documentation relating to service charges issues for the years 2017/18. These as he said had been settled. There was also a further email produced, but this one, as he would refer to it a ‘blind email’ sent to a number of recipients, one of which was Mrs Pawar’s address sending details of the notice of the EGM and the draft settlement agreement. He confirmed that he used individual email addresses for matters that were specific to the leaseholder in question.

38. Mr Kaxe told us that the Respondents had never contacted him to say they did not wish to receive documents by email and in his view the implication was that they had received all the demands and other documentation by this means.
39. He was asked whether an email address had been provided and consent given by the Respondents to receive documentation by email. He confirmed that there was no consent given and that the Respondents had directly provided Mrs Pawar's email address for communication purposes and that he must have had this information by reference to the email sent on 11th April 2017. He said that an additional email address belonging to Mr Pawar was provided to him and entered onto their system.
40. He was asked whether he had used the service of section 20 notices by way of email before and he said that he had when there had been some gardening works required.
41. Mr Pawar asked him whether anyone had made any comments about the works. His response was that no-one had complained and that in October of 2020 a round robin had been sent concerning the roof repairs in which a number of questions were posed, and answers given. This seemed to be on the basis that this was discussion that had taken place between himself and a director and was seen as an attempt to give answers to points that may cause concern to leaseholders.
42. There then arose an issue concerning the method by which service charge costs were apportioned. We think it is common ground that the lease appears to provide for costs to be incurred on a block basis but that for historic reasons service charges have been administered on an estate basis. In this case it was said by Mr Kaxe this worked to the benefit of the Respondents because the leaseholders of Block A have contributed towards the repair works of the other blocks when their roof had of course been replaced under the terms of the insurance arrangement and the settlement agreement. Mr Kaxe told us that the accounting arrangements had been this way for over 10 years.
43. There then followed an exchange concerning a telephone conversation that Mr Kaxe had had with Mr Pawar in it seems in January of 2021 following full demands sent in November for contributions to the building works of £4,431 for both flats. It appears that the telephone conversation between Mr Kaxe and Mr Pawar was short and to the point.
44. After we had heard from Mr Kaxe, Mr Andrew Dunning gave evidence to us. There was an initial report dated 15th January 2020 which following inspection said that the condition of the roof was poor with lifted and broken tiles across each of the inspected roofs. There were also problems with the verges and valley clips. The report went on to

say that it was evident that repairs had been carried out but those were poorly considered and deemed to be temporary fixes only. There was a further report by Mr Dunning but before then a report was undertaken by RMA surveyors on 8th April 2020, which referred to earlier reports at 1.2 of the report. The report noted that there were loose and poorly clipped tiles in Blocks B, C, D and E, that gable mortar was generally eroded and of poor quality and mortar to the hips and ridges of Blocks B, C, D and E was noted to be loose and of poor quality. In the conclusion the author says that the reports highlight “*a litany of issues that should not be present on a comparatively newly constructed development.*” In paragraph 3.5 of the report, he says that the roofs for Blocks B, C, D and E require complete recovering but that the roof coverings were thought to be performing adequately for Blocks F, G and H.

45. Mr Dunning came to the hearing to give evidence and provided a supplementary statement dated 26th January 2022 containing a statement of truth and an expert’s declaration.
46. The report confirms that the new statement was based on site visits and supervision as contract administrator following commencement of re-roofing works to Block B through to and including G, which commenced in June of last year. He set out details of the findings with photographic evidence to support. His view was that most of the failure had occurred due to inherent defects in construction from the date the roof was installed. His principal opinions were as follows: “*It is my considered opinion that the working practices which occurred on these blocks has significantly reduced the life expectancy of the material. The failures found since commencing work on site support the recommendations within our report of 15th January 2020. The significant number of roof leaks that have been occurring and reports of damp and leaks within the top floor flats is attributable to these failures within the roof. Although Block G was not inspected due to cost of access and surveyors time, it can be reasonably assumed that these practices have occurred on Block G as the construction was carried out by the same parties who undertook the building work on Blocks B, C, D and E.*”
47. At the hearing he confirmed that his opinion remained the same. He told us that works had now been completed to Blocks C, D and E and that there was scaffolding on Block B. Block G had been started and should be completed shortly. He told us that he had inspected Block G whilst works were undertaken, and these confirmed the findings that the condition of the roof was very similar to the other blocks. However, it was not quite so bad as different slates had been used. There was still, however, water underneath and inadequate fixing of the tiles and other issues set out in the other blocks. In his opinion the roof to Block G needed to be replaced. He confirmed also that on his assessment the combination of dealing with all blocks together would spread the cost

more equally bearing in the mind that the lessees of Block A appear to be contributing towards the other works.

48. He was asked some questions by Mr Pawar. He confirmed that he was aware that there were leaks in Blocks B and C and that information had been provided by tenants to a Mr Parry Jones who had carried out an earlier internal investigation. It had not been possible to undertake internal views of flats because of Covid. However, he had seen evidence from the works being carried out showing evidence of leaks to the flats and when the roofs were stripped back, he had found moisture in the loft voids.
49. He told us in answer to Mr Pawar that he attended the site every two weeks, that the contractor was known to him and that there was a two-year warranty, which he knew had been queried but the contractor had only agreed to this length of warranty. Apparently, it was too expensive to go to an external body to provide longer cover. He did not know whether the other contractors who had provided quotes were offering a longer-term insurance arrangement. He again confirmed to Mr Pawar that he had seen documentation clearly showing leaks across the blocks but was not able to help Mr Pawar who asked why this information had not been made available to him.
50. After a short break Mr Pawar spoke on his and his wife's behalf. He told us that he had been advised by a friend to look at the emails sent to him when service charge demands were made. He said that he had not been made aware during his purchase that there were roof problems and that generally he arranged for important documents to be sent to him by post. His concern was that the section 20 notice had not been served in accordance with the lease and as he had not seen the section 20 notice, he had not been able to raise any queries.
51. As a result of these proceedings, it appears that he reviewed old emails and found the s20 documents in their mailboxes. He thought the blocks were quite newly built, perhaps somewhere around 2006, and questioned whether the works were reasonably required to replace or whether there could just have been repairs. He asked why there was no warranty insurance and referred to correspondence from solicitors, in particular an advice from Stevens & Bolton LLP dated 20th March 2017, which gave an overview on potential causes of action against the developer and any claims there may be against the Zurich insurance. In particular Mr Pawar was concerned at a comment made in this report at page 179 which said that the author understood the Applicants objective was to completely re-roof all blocks and the concerns in that regard. Within the bundle was also a copy of Counsel's opinion dated 12th June 2016 which gave conclusions and steps to be taken.

52. Following this legal advice, a settlement agreement was entered into it would seem some time in 2018 between the Applicant Barclay Homes and Zurich. That settlement agreement is in the papers. As we have indicated above, the upshot was that Block A was re-roofed at no cost to the leaseholders but that was the extent of the support given.
53. It was Mr Pawar's assertion that the settlement agreement should have been the subject of consultation and he repeated his concerns that there had been no disclosure of the roof issues when he had acquired the Property.
54. Under questioning from Mr Cowen, he confirmed that all emails had been received but that he did not look at them. He said he knew there were service charges to be paid and when he looked at emails and saw reference to service charges then he knew what to expect and it was those only that he opened them.
55. It was put to him that three leaseholders had requested communication by post and he was asked whether he had ever asked the Applicants to do so but he said that he did not, but equally he had not consented to the use of emails. He was asked whether accepting emails was the equivalent of consent, particularly as these had not been challenged. He said he knew when he had to pay and what to look out for but otherwise did not review the emails he received. In essence his view was that a number of emails arrived which were irrelevant, and he therefore did not check on a regular basis.
56. Asked how he discovered about the EGM subsequently he said that he had typed in service charge to search for relevant emails. It was put to him that he owned a number of properties and that for example in April of 2019 he had paid service charges for these flats which had been sent to him by email. Asked that this being the case why he had not seen the notice for the EGM and other papers, his response was merely that he had not noticed them. He asserted that emails sent to his wife's email address did not get to him and that she would only ask him to look at those every now and again. He confirmed that he had not attended the any meetings of the company.
57. Asked about a conversation he had had with Mr Kaxe, he said that when he first had the phone call, he thought it was a scam, which is why he was not terribly welcoming. Apparently, he asked Mr Kaxe what flat was leaking but did not get a satisfactory response and the exchange ended angrily.
58. It was put to him that although he had had this perhaps somewhat testy conversation with Mr Kaxe why he did not then search his emails to check the position. He said that he was too busy with other things. He confirmed that even if he had looked at the emails, he did not think that this would have prevented him from making the claims that he did. He

confirmed that he had seen the section 20 emails subsequently. Asked what he thought of the experts report, he said that he would challenge Mr Dunning's as it was in his view exaggerated. He still asked where were the leaks and an answer had not been provided.

59. After a short luncheon adjournment, we received submissions from Mr Cowen. We had of course his written submissions. His view was that this was a pretty straightforward case with overwhelming evidence in support of the claims under section 27A. There was expert evidence to support the right contractor had been used and there was no issue with quality or cost.

60. An issue had been raised concerning the settlement agreement, but this followed a barrister's opinion and advice from solicitors. It was he said reasonable for the Applicants to have followed the advice that was given to them, and the EGM was called for that purpose, of which notice was given to the Respondents by email.

61. In addition to the above, Mr Cowen pointed out that regular updates were sent to the leaseholders by email. He referred us to the relevant parts of the lease dealing with interest and costs and the Applicant's obligation to carry out repairs. We were also referred to clause 8(4) of the lease which says this:

"All notices required to be served on the tenant hereunder shall be well and sufficiently served if sent through the post by the recorded delivery service addressed to the tenant at the flat either by name or by the general description of the tenant or left upon or at the flat and all notices required to be served on the landlord hereunder shall be well and sufficiently served if left at or sent through the post by recorded delivery service to the registered office or last known address of the landlord."

62. As Mr Cowen said, it was common ground that all lessees had been served by email and that they had been received by the Respondents' computers to enable them to see and read them at the time of service. They chose not to do so.

63. In support of the Applicant's position, we were referred to an extract from the Upper Tribunal case of the London Borough of Southwark v Akhtar and others [2017]UKUT0150(LC). In this case Mr Cowen says that it is clear that the emails were received and that it is not for the Applicants to prove that the Respondents in this case actually read them. Mr Pawar has accepted that either he or his wife received the emails which were sent to his attention, and it was no different to somebody who had envelopes which they did not open for a period of time. Service was upon him when it was delivered not when they decided to look at the emails. In those circumstances the primary submission was that dispensation was not required.

64. He reminded us that section 21A of the Act is not in force.
65. He asked us to accept Mr Dunning's evidence. Insofar as the EGM was concerned, that did not specify special resolution. The resolution was carried by unanimous vote of all who attended. Mr Cowen put to us that having bought the flat in 2015 they should have known when they purchased the other property in 2018 what the position was. There was no indication as to what questions may have been asked of the vendor or the Applicant's managing agents but it was denied that there was any material non-disclosure. The section 20 notice provisions did not apply to the settlement agreement and that whilst there was mileage in the assertion that the service charges should be apportioned on a block by block basis, Mr Kaxe confirmed that they had been collecting it on an estate wide basis for a number of years, which had not been objected to by the Respondents and that indeed carrying out the assessment by way of an estate basis clearly did not prejudice the Respondents.
66. Further submissions were made in connection with the section 20 point if we were of the view that service was not good. We were referred to the Supreme Court case of Daejan and the lack of evidence on behalf of the Respondents showing what they would have done differently. It was he said not reasonable for the Respondents to choose to ignore emails sent to them. They were property owners, and they were not behaving in a way that you would expect. It was pointed out to us that other people did receive notices by emails and responded to them and that no other leaseholder has objected to the dispensation application.
67. Insofar as concluding matters were concerned, Mr Cowen said that they sought to recover the County Court costs as set out on the particulars of claim, but no other costs were sought on the basis that the claim was a small claims case.

Findings

68. We will deal firstly with the service of the section 20 notice point. The lease is clear. The decision of Judge Cook indicates that the service of a section 20 notice is under the terms of the lease and would therefore be a document that required to be served accordingly. The section 20 notice enables the landlord to do something prescribed by the lease, that is to say to carry out repairs to the Property which are not disputed and to recover service charges. In those circumstances following from Judge Cook's findings, section 196 of the Law of Property Act 1925 would apply which in turn means that section 7 of the Interpretation Act 1978 applies. However, we are not convinced that this helps the Applicant to any degree as that deals with the question of service by post.
69. The service in this case was by email. If one considers the practice direction 6a of the Civil Procedure Rules one sees at 4.1 that a

document may be served by electronic means but the party who is to be served must have indicated a willingness to accept such mode of service. Further at 4.2 it states that where a party intends to serve a document by electronic means (other than by fax) that party must first ask the party who is to be served whether there are any limitations on the recipient's agreement to accept service by such means (for example the format in which documents are to be sent and the maximum size of attachment that may be received). In this case the evidence appears to be that the Respondents did not at any time accept service by email.

70. Accordingly, we consider that the Applicants do need to rely on the dispensation provisions provided under section 20ZA. In this regard we find the dispensation should be granted. We do so for a number of reasons. Firstly, it is not denied by the Respondents that they did receive the emails but for reasons that are not wholly clear and somewhat illogical, they chose not to open them and read them. The only ones they did appear to read related to service charges but that seems to be because a friend initially advised them that this was the situation regarding service of demands. At no point did the Respondents raise with the Applicants that they did not wish to receive service by email and indeed as they have said they have paid their service charges in full and on time during their period of ownership up until the dispute arose regarding the roofing works. It seems to us, therefore, that it is the Respondents' fault that they did not find the emails that were sent to them and to pick and choose as they have in this case seems to us to be unreasonable.
71. Further they have not provided any evidence of any form of prejudice that may have been caused. They say they did not get the opportunity to raise questions and perhaps to have obtained alternative quotes. However, in this case there is no challenge made to the standard of the work or the cost of the work. Applying the provisions of the Daejan case it seems to us that dispensation should be granted to the Applicant without condition. We bear in mind also that this is a management company of which a number of leaseholders are members and is run by members for the benefit of the leaseholders in the development. In addition, it is clear to us that there is detailed and protracted communications between the Respondents, who chose not to read them, and the Applicant and between the Applicant and other leaseholders on the development. No other leaseholder has raised a complaint as to the use of emails or the lack of knowledge with regard to the section 20 consultation. The section 20ZA application was served on each individual leaseholder and none but the Respondents have complained.
72. On the question of the EGM we do not accept the Respondents' assertions that this somehow breaches the Companies Act. This is not technically within our jurisdiction and it is not something that we need to make any particular finding upon. As we have indicated above, we find that dispensation should be granted in respect of the work.

73. We then turn to the works themselves. It seems quite clear that the Applicants took a great deal of time to obtain legal advice as to the terms of settlement which were eventually entered into between them, the developer and the insurers. They have the benefit of both Counsel's advice and solicitors' advice, and it does not seem to us that the Respondents can in reality challenge the arrangements that were made.
74. Insofar as the roofing works are concerned, these are supported by experts. We were satisfied with the evidence given to us by Mr Dunning, both in his report that he had provided as an independent expert and before us. The Respondents produced no evidence to rebut that which Mr Dunning said. We have seen the photographs exhibited to Mr Dunning's report. It appears quite clear that the works undertaken by Barclay were substandard. This was investigated some time ago and it is not for us to revisit that element. It is clear from the evidence we received that there were reports of leaks to the building and this was backed up by Mr Dunning who said that during his inspections he could see water ingress. In those circumstances, we reject the Respondents' assertions that the works were unnecessary and unreasonable. No challenge is made by them to the costs of those works and, in those circumstances, we find that the Respondents are indebted to the Applicant/Claimant in the sum of £8,862 together with interest in the sum of £501.42 as sought by the Applicant. We consider in our discretion that this shall be the final sum due in respect of interest for the sake of certainty and closure. In addition the sum of £780 was sought in respect of administration charges by way of legal fees for the two properties, which we approve. We make no order under section 20C of the Act or under paragraph 5 of schedule 11 of the Commonhold and Leasehold Reform Act 2002.

Conclusion

75. I make the following awards:
- (ii) Service charges: £8,862;
 - (iii) Legal costs payable as an administration charge: £780;
 - (iv) Interest under the terms of the lease: £501.42.
76. The landlord has asked for the order to be made as an order of the county court so that it can be directly enforceable without further application having to be made to the court. I will accede to this request and have drawn a form of judgment that will be submitted with these reasons to the County Court sitting at Reading, to be entered in the court's records. All payments are to be made by **15 July 2022**.

Name: Judge Dutton

Date: 7 June 2022

ANNEX - RIGHTS OF APPEAL

Appealing against the tribunal's decisions

1. A written application for permission must be made to the First-tier Tribunal at the Regional tribunal office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
3. 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.
4. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers
5. Any application to stay the effect of the decision must be made at the same time as the application for permission to appeal.

Appealing against the County Court decision

1. A written application for permission must be made to the court at the Regional tribunal office which has been dealing with the case.
2. The date that the judgment is sent to the parties is the hand-down date.
3. From the date when the judgment is sent to the parties (the hand-down date), the consideration of any application for permission to appeal is hereby adjourned for 28 days.
4. The application for permission to appeal must arrive at the Regional tribunal office within 28 days after the date this decision is sent to the parties.
5. The application for permission to appeal must state the grounds of appeal, and state the result the party making the application is seeking. All applications for permission to appeal will be considered on the papers.
6. If an application is made for permission to appeal and that application is refused, and a party wants to pursue an appeal, then the time to do so will be extended and that party must file an Appellant's Notice at the

appropriate County Court (not Tribunal) office within 14 days after the date the refusal of permission decision is sent to the parties.

7. Any application to stay the effect of the order must be made at the same time as the application for permission to appeal.

Appealing against the decisions of the tribunal and the County Court

In this case, both the above routes should be followed.