



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

**Case Reference** : **LON/00BA/LDC/2022/0068**

**Property** : **245, Queens Road, London SW19 8NY**

**Applicant** : **Orchidbase Ltd.**

**Representative** : **Michael Richards & Co.**

**Respondents** : **(1) Mr. J.D. Chambers  
(2) Ms. R Jackson**

**Representative** : **Not Represented**

**Type of Application** : **For the determination of an application  
for dispensation from the statutory  
consultation requirements**

**Tribunal Members** : **Tribunal Judge S.J. Walker**

**Date and venue of  
Hearing** : **Decided on the Papers**

**Date of Decision** : **16 August 2022**

---

**DECISION**

---

**Decision of the Tribunal**

The Tribunal determines that the statutory consultation requirements shall be dispensed with in respect of works to repair a defective joist in the property.

## Reasons

### The application

1. The Applicant seeks a determination pursuant to section 20ZA of the Landlord and Tenant Act 1985 (“the 1985 Act”) dispensing with the statutory consultation requirements which apply by virtue of section 20 of the 1985 Act in respect of structural works to repair a joist which needs works to make it safe.
2. The application was made on 18 February 2022. It stated that the application was being made because in the course of undertaking internal refurbishment it came to light that a structural joist needed work to make it safe.
3. Directions were 8 July 2022 and were sent by the Tribunal to the parties on 11 July 2022. The directions provided that the Tribunal would determine the application on the papers in the week commencing 15 August 2022. However, they also stated that anybody requesting a hearing had until 19 August 2022 to do so. No such request has been received by the Tribunal and so this determination is made on the papers which have been provided by the parties.
4. The directions provided that either of the Respondents who opposed the application were to complete a reply form and return it to the Tribunal by 22 July 2022. The Tribunal is satisfied that adequate notice of the application and how to object to it has been given to the Respondents.
5. No reply forms were received by the Tribunal. The Applicant confirmed in their statement of case that there had been a response from the Second Respondent and this was included at page 46 of their bundle. However, this does not object to the dispensation application but merely questions why action was not taken earlier.
6. The relevant legal provisions are set out in the Appendix to this decision.
7. Neither party requested an inspection, and the Tribunal did not consider that one was necessary, nor would it have been proportionate to the issues in dispute.

### The Background

8. The property is a 3-storey residential block of flats that was originally built as a semi-detached house in the early 20<sup>th</sup> century and which was converted into flats in about the 1970s.

### The Lease

9. No evidence of title was produced. However, no issue has been raised as to the right of the Applicant to make this application.
10. A lease dated 16 July 1980 made between Jasil Properties Ltd. and Alan Clifford Hill and Patricia Elizabeth Hill in respect of the ground floor flat was provided with the application. By clause 5(1) of the lease the tenant covenants to pay a

fixed percentage of the costs specified in clause 5(2) of the lease, which include the landlord's costs in maintaining and keeping the main timbers and structure of the building in good repair.

**The Issues**

11. The only issue for the Tribunal is whether or not it is reasonable to dispense with the statutory consultation requirements. The Tribunal is not concerned with the issue of whether any service charge costs will be reasonable or payable.

**The Applicant's Case**

12. The Applicant's case is that during the course of internal decorations a problem was discovered in respect of a structural joist in the common parts. This was inspected by a structural engineer and a quote was provided for remedial works to make the joist safe. This was for £3,225 plus VAT and so exceeded the threshold above which consultation would be necessary. The tenants were informed of the situation and the landlord's intention to make this application on 1 March 2022.
13. The application was made on the basis that these additional works were necessary before the planned internal redecoration works could be completed.

**The Respondents' Case**

14. As previously explained, no objections have been received from any leaseholders. The comment from the Second Respondent does not amount to an objection to the application for a dispensation.

**The Tribunal's Decision**

15. The Tribunal is satisfied that the consultation requirements should be dispensed with. It is satisfied that in view of the identified structural problem it is appropriate to carry out the identified remedial works and that it is appropriate to grant a dispensation.
16. The Tribunal is satisfied that the leaseholders have been notified of the application and bears in mind that there has been no objection from any of them to it. It also bears in mind the limited scope of the issue before it. The purpose of the consultation requirements is to protect tenants from paying for inappropriate works and from paying more than would be appropriate for such works. It follows that the issue when considering dispensation is the extent to which the tenants are prejudiced as regards these two protections. There is nothing before the Tribunal to suggest that the leaseholders would suffer any prejudice if this application were granted.
17. In all the circumstances the Tribunal is satisfied that it is reasonable to dispense with the consultation requirements.

**Name:** Tribunal Judge S.J.  
Walker

**Date:** 22 August 2022

## **ANNEX - RIGHTS OF APPEAL**

- The Tribunal is required to set out rights of appeal against its decisions by virtue of the rule 36 (2)(c) of the Tribunal Procedure (First-tier Tribunal)(Property Chamber) Rules 2013 and these are set out below.
- If a party wishes to appeal against 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.

### **Appendix of relevant legislation**

#### **Landlord and Tenant Act 1985 (as amended)**

##### **Section 18**

- (1) In the following provisions of this Act "service charge" means an amount payable by a tenant of a dwelling as part of or in addition to the rent -
  - (a) which is payable, directly or indirectly, for services, repairs, maintenance, improvements or insurance or the landlord's costs of management, and
  - (b) the whole or part of which varies or may vary according to the relevant costs.
- (2) The relevant costs are the costs or estimated costs incurred or to be incurred by or on behalf of the landlord, or a superior landlord, in connection with the matters for which the service charge is payable.
- (3) For this purpose -
  - (a) "costs" includes overheads, and

- (b) costs are relevant costs in relation to a service charge whether they are incurred, or to be incurred, in the period for which the service charge is payable or in an earlier or later period.

### **Section 19**

- (1) Relevant costs shall be taken into account in determining the amount of a service charge payable for a period -
  - (a) only to the extent that they are reasonably incurred, and
  - (b) where they are incurred on the provisions of services or the carrying out of works, only if the services or works are of a reasonable standard;and the amount payable shall be limited accordingly.
- (2) Where a service charge is payable before the relevant costs are incurred, no greater amount than is reasonable is so payable, and after the relevant costs have been incurred any necessary adjustment shall be made by repayment, reduction or subsequent charges or otherwise

### **Section 20**

- (1) Where this section applies to any qualifying works or qualifying long term agreement, the relevant contributions of tenants are limited in accordance with subsection (6) or (7) (or both) unless the consultation requirements have been either—
  - (a) complied with in relation to the works or agreement, or
  - (b) dispensed with in relation to the works or agreement by (or on appeal from) the appropriate Tribunal .
- (2) In this section “relevant contribution”, in relation to a tenant and any works or agreement, is the amount which he may be required under the terms of his lease to contribute (by the payment of service charges) to relevant costs incurred on carrying out the works or under the agreement.
- (3) This section applies to qualifying works if relevant costs incurred on carrying out the works exceed an appropriate amount.
- (4) The Secretary of State may by regulations provide that this section applies to a qualifying long term agreement—
  - (a) if relevant costs incurred under the agreement exceed an appropriate amount, or
  - (b) if relevant costs incurred under the agreement during a period prescribed by the regulations exceed an appropriate amount.
- (5) An appropriate amount is an amount set by regulations made by the Secretary of State; and the regulations may make provision for either or both of the following to be an appropriate amount—
  - (a) an amount prescribed by, or determined in accordance with, the regulations, and

- (b) an amount which results in the relevant contribution of any one or more tenants being an amount prescribed by, or determined in accordance with, the regulations.
- (6) Where an appropriate amount is set by virtue of paragraph (a) of subsection (5), the amount of the relevant costs incurred on carrying out the works or under the agreement which may be taken into account in determining the relevant contributions of tenants is limited to the appropriate amount.
- (7) Where an appropriate amount is set by virtue of paragraph (b) of that subsection, the amount of the relevant contribution of the tenant, or each of the tenants, whose relevant contribution would otherwise exceed the amount prescribed by, or determined in accordance with, the regulations is limited to the amount so prescribed or determined.]

### **Section 20ZA**

- (1) 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.
- (2) In section 20 and this section –
  - “qualifying works” means works on a building or any other premises, and
  - “qualifying long term agreement” means (subject to subsection (3)) an agreement entered into, by or on behalf of the landlord or a superior landlord, for a term of more than twelve months.
- (3) The Secretary of State may by regulations provide that an agreement is not a qualifying long term agreement –
  - (a) if it is an agreement of a description prescribed by the regulations, or
  - (b) in any circumstances so prescribed.
- (4) In section 20 and this section “the consultation requirements” means requirements prescribed by regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may in particular include provision requiring the landlord
  - (a) to provide details of proposed works or agreements to tenants or the recognised tenants’ association representing them,
  - (b) to obtain estimates for proposed works or agreements,
  - (c) to invite tenants or the recognised tenants’ association to propose the names of persons from whom the landlord should try to obtain other estimates,
  - (d) to have regard to observations made by tenants or the recognised tenants’ association in relation to proposed works or agreements and estimates, and

- (e) to give reasons in prescribed circumstances for carrying out works or entering into agreements
- (6) Regulations under section 20 or this section
  - (a) may make provision generally or only in relation to specific cases, and
  - (b) may make different provision for different purposes.
- (7) Regulations under section 20 or this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.