



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

Case Reference : **LON/00AC/LDC/2018/002**

Property : **10 Market Place, East Finchley,
London N2 8BB**

Applicant : **Dr Anita Logendra**

Representative : **In person**

Respondent : **Dr Celina Smith**

Representative : **In person**

Types of Application : **Dispensation/20ZA**

Tribunal Members : **Judge Tagliavini
Mr. Luis Jarero BSc FRICS**

**Date and venue of
Hearing** : **17 October 2018
10 Alfred Place, London WC1E 7LR**

Date of Decision : **16 November 2018**

DECISION

The tribunal's summary decision:

- A. The tribunal grants the Applicant landlord dispensation from the requirements of section 20C Landlord and Tenant Act 1985 to carry out the works of repair to remedy problems of external and internal damp and roof works.

The application:

1. The Applicant freeholder seeks a dispensation under section 20ZA of the Landlord and Tenant Act 1985 ("the 1985 Act") from the section 20 consultations provisions required by that Act, as the subject property has required urgent external and internal works to remedy a damp problem and urgent roof works.
2. The subject property comprises a Victorian house converted into two flats on the ground and first floor. The Applicant is the long leaseholder of the ground floor flat and the freeholder of the building. The Respondent tenant holds a long lease dated 15 February 1980 of the first floor flat.

Background

3. The property has been subject to the need for works to lower the external path to remedy a damp problem that has been ongoing over an extended period of time. In about February 2018; works to the roof were also identified. The parties were initially in agreement as to what works should be carried out. However, as the need for works to solve the ongoing problem with the damp and roof progressed, the Respondent disagreed with the Applicant's final proposed roof works and therefore opposes this application. Works to remedy the external and internal damp and the roof have been carried out and completed prior to the making of this application.

The Applicant's case

4. In a written statement in support of her application and in her oral evidence, the Applicant told the tribunal that she had been unaware of the requirements of the 1985 Act to consult with leaseholders before carrying out works over a certain financial limits. Consequently, since buying the property in 2007, the Applicant had worked with Dr. Smith to agree works that required financial contributions from both leaseholders. Despite attempts to agree the works on this occasion no agreement had been reached.
5. The Applicant told the tribunal that she was advised by a structural engineer that the most effective way to remedy the ongoing problems with the external/internal damp problem was by lowering the ground levels externally around the front and side of the property and remedying the mould growth and defective plaster internally. As the

damp affected the Applicant's ability to use her flat fully, the works to remedy the damp were considered urgent and carried out in March/April 2018.

6. The Applicant also told the tribunal that the parties agreed roof works were required because of the "roof spread" that had occurred and variously identified by Mr. Cordt of Stort roofing, Mr. Krivceski (structural engineer) and Mr. Gary Bond (builder) and Mr. Horsfield (surveyor). Unfortunately, the parties could not agree on the manner in which the necessary works would be carried out with the Applicant wanting to start in May 2018 and the Respondent unwilling to agree to this, until building control could inspect and guarantee no further works would be required. Works to the roof were subsequently carried out and "signed off" by building control.

The Respondent's case:

7. In opposing the application, the Respondent provided oral and written evidence and supporting documentation to the tribunal. Dr Smith told the tribunal that she agreed that works to remedy the damp problem and roof works were needed and that the standard of works carried out appeared to be "okay". Dr Smith however, stated she opposed the application because as a leaseholder and "owner of half the building" she felt her interests were not being fully considered by the Applicant and stated, "I don't think that I should be paying for works where I have not been properly consulted." Dr Smith stated she had been allowed very little opportunity to comment on the internal damp works but accepted that she had had a lot of opportunity to comment on the roof works.
8. Dr. Smith told the tribunal that she felt that she has suffered a loss in respect of the internal works and incurred costs as a result of this application. Dr Smith also stated that had there been section 20 notices served in respect of the works she could have obtained her own quotes.

The tribunal's decision and reasons

9. Having read the extensive documentation provided by both parties including their written statements and considering the oral evidence, the tribunal finds that Dr Smith had been kept fully informed of the need for works as well as the nature and extent of their repair. Further, the tribunal finds that Dr Smith had ample opportunities to comment on the external damp and roof works, provide alternative quotes and suggest alternative contractors over the course of several months.
10. However, the tribunal finds that the Applicant as the freeholder had the responsibility of ensuring these works were carried out promptly in order to remedy the serious defects occurring and to prevent future damage. The tribunal finds that the Applicant was entitled to make the final decision as to when and how the works would be carried out and

by whom. As this application does not concern either the standard of the works or the reasonableness of their costs, both of which it is open to the Respondent to dispute at a later date, the tribunal considers it reasonable and appropriate in all the circumstances to dispense with all of the consultation provisions required under section 20 of the 1985 Act. The tribunal finds that Dr Smith has not suffered any prejudice by reason of the absence of formal consultation, in light of the extensive informal correspondence carried out between the parties and her acknowledgment that these works were required.

Signed: Judge Tagliavini

Dated: 16 November 2018