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THE LEASEHOLD VALUATION TRIBUNAL FOR THE LONDON
RENT ASSESSMENT PANEL

THE LANDLORD AND TENANT ACT 1985 (as amended) Section
20ZA

Ref: LON/00AP/LDC/2006/0071

Premises: 24/25 Eleanor Road, London N11 2QS

Applicant: Mrs A Mura

Respondents: Ms Lynne Kaye
Mr Luke Daldy
Mr Anvik Gupta
Ms Khaleghpanah & Ms Yousefi

Date of Application: 16th October 2006

Date of Decision: 20th November 2006

Members of the Leasehold Valuation Tribunal

Miss A Seifert FCI Arb
Mr I G Thompson BSc FRICS

Regulations have been made under the Act including the Service Charges (Consultation etc) (England) Regulations 2003 (S.I. 2003/1987) ("the Regulations").

4. In the Application form it was stated that the Application related to qualifying works. The grounds for dispensation set out in the Application can be summarised as follows:
 - 1] The existing roof of the property is beyond economic repair. Water is entering both first floor flats in heavy rain causing damage to the structure and decorations. It was also contended that the water ingress rendered some of the lighting unsafe and constituted a health and safety issue.
 - 2] Mr Watson, as service charge manager of Duncan Phillips Ltd, had held meetings with the lessees and Mrs Mura to determine the extent of the roof problem and the resultant damage and to explain the section 20 procedures. All parties agreed that the work needed to be undertaken as a matter of urgency.
 - 3] In particular, dispensation of the consultation provisions was sought because of the alleged urgency of the situation, particularly in respect of the dangerous electrics. The roof was dilapidated, having been badly patched up in the past and was reaching the end of its effective life.
5. The Tribunal issued directions in this case dated 18th October 2006. The Applicant asked for this case to be determined by the Tribunal on the basis of written representations (paper track). The Tribunal considered that the case might be suitable for paper track and gave the Respondents an opportunity to request a hearing. No such request was made, and the Tribunal determines the request for dispensation on the basis of the written representations received. No written statements were received from the Respondents.
6. The Applicant provided the Tribunal with a bundle of documents including a copy of the lease of 24B at the property, and some copy correspondence. Mr Watson provided the Tribunal with a written statement dated 14th November 2006. This statement included the following:
 - 1] Mr Watson had taken over the responsibility for the management of the service charge department at Duncan Phillips Ltd in late November 2005.
 - 2] He referred to difficulties in the past with reference to payment of service charges based on dissatisfaction with the service provided by previous managing agents.

level of number 25 on the front elevation there are rendered masonry arches and coming over the windows, which displayed peeling paintwork and evidence of defective rendering.

8. Within flat 25B the Tribunal noted the following:
 - 1] Front living room – severe water staining to front wall and right hand return wall, above, around and below windows, together with mould growth.
 - 2] Bedroom – damp staining and surface water running down wall adjacent to window together with condensation and mould growth in corner below window.
 - 3] Bathroom – horizontal crack running across the length of the ceiling, but no evidence of water staining.
 - 4] Kitchen – severe condensation and mould growth to all walls.
9. Within flat 24B the Tribunal noted the following:
 - 1] Entrance hall – water staining to ceiling.
 - 2] Right hand bedroom – water staining to ceiling in two locations above and adjacent to entrance door.
 - 3] Bathroom – ceiling mounted light disconnected, but no water staining to ceiling.
10. The Regulations provide in Schedule 4 Part 2 for the service of a notice of intention in paragraph 8(1) to (3) inclusive. They also provide for the inspection of description of proposed works in paragraph 9(1) and (2), and at paragraph 10 there is a duty to have regard to observations in relation to the proposed works. Paragraphs 11 (1) to (4) inclusive provide for obtaining estimates from lessee nominated persons. Given the information already supplied to the parties by the lessor's agents, the Tribunal consider that it is reasonable to dispense with the requirements of paragraphs 8(1) to (3) inclusive, 9(1) and (2), 10 and 11(1) to (4) inclusive referred to above.
11. The Regulations also provide in Schedule 4 Part 2 paragraphs 11(5) to (11) as follows:

Paragraph 11(5) "The landlord shall, in accordance with this sub-paragraph and sub-paragraphs (6) to (9) –

 - (a) obtain estimates for the carrying out of the proposed works;

currently obtained comprehensively or adequately deal with the problems of water ingress into the property.

15. Taking all the above into account the Tribunal does not consider that it is reasonable to dispense with the following requirements of Schedule 4 Part 2 of the Regulations namely:
- 1] The requirements of paragraphs 11(5) to (11) inclusive. For the avoidance of doubt paragraph 11(5)(b)(ii) need not be complied with because it relates to earlier provisions in respect of which dispensation has been granted.
 - 2] The requirements of paragraph 12.
 - 3] The requirements of paragraph 13.

CHAIRMAN: Anne Seifert *Anne Seifert*

DATE: 20th November 2006

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