



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

**Case Reference** : **LON/00AH/LDC/2021/0130  
P: PAPERREMOTE**

**Property** : **17-19 Selhurst Road, Selhurst,  
London SE26 5PP**

**Applicant** : **Mr Jugraj Pugalia**

**Representative** : **In person**

**Respondent** : **Mr Paul Crane (17B Selhurst Road)**

**Representative** : **In person**

**Type of Application** : **Section 20ZA Landlord and Tenant  
Act 1985  
Dispensation with consultation  
requirements**

**Tribunal member(s)** : **Judge Donegan**

**Date of Paper  
Determination** : **06 July 2021**

**Date of Decision** : **06 July 2021**

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**DECISION**

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**This has been a remote hearing on the papers which has not been objected to by the parties. The form of remote hearing was P: PAPERREMOTE. A face-to-face hearing was not held because it was not practicable, and all issues could be determined on paper. The documents that I was referred to are in a bundle of 83 pages, the contents of which I have noted.**

## **Decision of the Tribunal**

- (a) **The Tribunal grants retrospective dispensation under section 20ZA of the Landlord and Tenant Act 1985 (‘the 1985 Act’) for the disconnection and reconnection of the electricity supply at 17-19 Selhurst Road (‘the Property’), as detailed in a charge notice from UK Power Networks (‘UKPN’) dated 10 September 2020.**
- (b) **No terms are imposed on the grant of dispensation.**

## **The application**

1. The applicant seeks dispensation from the consultation requirements imposed by section 20 of the 1985 Act. The application concerns the electricity supply to the Property.
2. The application is dated 09 May 2021 and directions were issued on 20 May 2021. These provided that the case be allocated to the paper track, to be determined upon the basis of written representations. Neither party has objected to this allocation or requested an oral hearing. The paper determination took place on 06 July 2021.
3. The relevant legal provisions are set out in the appendix to this decision.

## **The background**

4. The Property comprises two buildings, each having a shop on the ground floor and two flats above. The applicant is the freeholder of 15-19 Selhurst Road, but the application only concerns 17 and 19 Selhurst Road. He is also the leaseholder of the flats 17A and 19A Selhurst Road. A family member, Mrs Neerja Puglia is the leaseholder of 19B, and the respondent is the leaseholder of 17B Selhurst Road.
5. UKPN wrote to the applicant on 10 September 2020, notifying him of an unlawful connection to their distribution network. Their letter required remedial works to be initiated within 30 days and enclosed a charge notice for the disconnection and reconnection of the electricity supply at total cost of ££6,460.64, including VAT. The applicant forwarded this correspondence to the respondent and Mr Cyril Jones, who is the leaseholder of 15A Selhurst Road, by email. He explained the work was urgent and he would pay the charge from his own funds and request their contributions later on.
6. The applicant subsequently paid the charge and was notified that the work would commence at the end of September 2020. He informed the respondent and they attended a site meeting with his electrician and

UKPN on 28 September, to discuss the scope of the work. The work was completed in early November. The applicant demanded 25% of UKPN's charge (£1,615.16) in an email to the respondent dated 26 November 2020.

### **The grounds of the application**

7. The grounds are detailed in a signed witness statement from the applicant dated 24 March 2021 and are summarised below:
  - (a) the work was urgent, given the 30-day deadline imposed by UKPN,
  - (b) UKPN is a monopoly distribution network operator, so the applicant was unable to seek alternative quotes or negotiate,
  - (c) the applicant paid UKPN's charge from his own funds to avoid the disconnection of the electricity supply to the Property,
  - (d) there was no formal section 20 consultation, due to the urgent nature of the work but the applicant consulted informally and kept the respondent fully informed, and
  - (e) the work only affected the Property and did not affect 15/15A Selhurst Road. For this reason, the applicant has not demanded a contribution from Mr Jones.
  
8. The respondent opposes the dispensation application. His grounds of opposition are detailed in an unsigned and undated "*statement of evidence*". In brief, he disputes the contribution demanded by the respondent on the following grounds:
  - (a) there should be a credit of £450.97, for a previous overcharge relating to the installation of communal electric gates,
  - (b) this is the second occasion where the respondent failed to undertake a section 20 consultation, as there was no consultation for the electric gates,
  - (c) the applicant has failed to produce evidence there was an unlawful electricity connection to 17B Selhurst Road,
  - (d) there are eight different units at 15-19 Selhurst Road and it is unclear whether the UKPN charge should be billed to all eight, or just the four flats at the Property,

- (e) the applicant has previously agreed a reduction in his contribution to 1/5<sup>th</sup>.

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

9. The Tribunal grants retrospective dispensation for the disconnection and reconnection of the electricity supply, as undertaken by UKPN. No terms are imposed on the grant of dispensation.

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

10. The Tribunal accepts this work was urgent, given the terms of the charge notice. A full section 20 consultation would have taken three months or more. The applicant acted reasonably in paying the UKPN charge from his own funds, to avoid the disconnection of the electricity supply. Further, he acted reasonably in keeping the respondent informed of developments.
11. The respondent's objections largely relate to the amount of his contribution. He has not identified any prejudice that might arise from the grant of dispensation or proposed any terms as a condition of granting dispensation.
12. Having regard to the particular facts of this case and the guidance in *Daejan Investments Limited v Benson [2013] UKSC 14*, it is reasonable to dispense with the consultation requirements.
13. This decision does not address the cost of the work or whether it was reasonably incurred. Further, it does not address the respondent's liability to contribute under the terms of his lease, the proportion payable (if any), whether he is entitled to a credit or the form of the service charge demand.
14. The Tribunal notes that the work was required to remedy an illegal connection to UKPN's distribution network. The applicant has not explained how the illegal connection arose, which may have a bearing on 'payability'.
15. Nothing in this decision prevents the respondent from seeking a determination under section 27A of the 1985 Act. He may wish to seek independent legal advice in this matter.

**Name:** Tribunal Judge Donegan      **Date:** 06 July 2021

## **Rights of appeal**

1. 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.
2. 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.
3. 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.
4. 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.
5. 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.
6. If the Tribunal refuses to grant permission to appeal, a further application for permission may be made to the Upper Tribunal (Lands Chamber).

## **Appendix of relevant legislation**

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

#### **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 of 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.

### **Section 27A**

- (1) An application may be made to the appropriate tribunal for a determination whether a service charge is payable and, if it is, as to –
  - (a) the person by whom it is payable,
  - (b) the person to whom it is payable,
  - (c) the amount which is payable,
  - (d) the date at or by which it is payable, and
  - (e) the manner in which it is payable.
- (2) Subsection (1) applies whether or not any payment has been made.
- (3) An application may also be made to the appropriate tribunal for a determination whether, if costs were incurred for services, repairs, maintenance, improvements, insurance or management of any specified description, a service charge would be payable for the costs and, if it would, as to –
  - (a) the person by whom it would be payable,
  - (b) the person to whom it would be payable,
  - (c) the amount which would be payable,
  - (d) the date at or by which it would be payable, and
  - (e) the manner in which it would be payable.
- (4) No application under subsection (1) or (3) may be made in respect of a matter which –
  - (a) has been agreed or admitted by the tenant,
  - (b) has been, or is to be, referred to arbitration pursuant to a post-dispute arbitration agreement to which the tenant is a party,
  - (c) has been the subject of determination by a court, or

- (d) has been the subject of determination by an arbitral tribunal pursuant to a post-dispute arbitration agreement.
- (5) But the tenant is not to be taken to have agreed or admitted any matter by reason only of having made any payment.