

## **“Are Commercial Landlords a soft target?”**

Over the past few years and particularly during the current recession Landlords of commercial property have seen challenges to the typical leasing structure.

Many commercial Landlords believed that once they had completed on a lease the terms were set in stone. We have however seen over the past few years various strategies adopted , particularly by larger retail chains, whereby this has not been the case. Many tenants have negotiated informally and successfully that rent should be payable monthly in advance rather than quarterly in advance which is still what most commercial leases provide for in the documentation. Other concessions have also been negotiated by landlords wary of having an empty unit at this current time on which they will have to pay rates whilst trying to relet. Normally the tenants will suggest that it is better for the Landlord to take a reduced rent rather than risk having an empty property. It is believed that First Quench (Thresher) tried to do this before entering into Administration. The first a Landlord will often know of this is a request in writing from a tenant trying to make this a fait accompli.

There has over the past 12 months various Administrations and Company Voluntary Arrangements (CVA) in the national press whereby proposals have been made requiring landlords to forgo their strict rights and obligations. Often these are along the lines that a reduced rent will be accepted or no rent but that the tenant will keep paying the rates which are due even if the property is empty. It is believed that the recently approved CVA approved by an overwhelming majority of the creditors of Blacks plc ,the leisure retailer, provides that certain sites are to be closed and the Landlord will need to relet the premises and in settlement of the lease obligations the Landlord will receive a fixed maximum period of rental and rates until the property is let.

Commentators on this subject have suggested that care needs to be taken as some of the proposals which are being seen seem to be unfair to commercial Landlords whilst benefiting other trade creditors. Any Landlord who becomes aware of the tenant being in financial difficulty should look to obtain advice from their advisers as to what is the best way to proceed. Often there will be conflicting issues which need to be considered to ensure that the Landlords position is protected and the best outcome achieved.

If you require further information on this topic or any aspect affecting commercial property please contact our Property Partner David Whitney on [dw@hpwsolicitors.co.uk](mailto:dw@hpwsolicitors.co.uk) or direct dial 0208 735 9783.

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