

WHAT TO DO AT THE END OF YOUR LEASE?

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A guide for Business Tenants

What happens at the end of a lease can be more expensive to sort out than taking the lease in the first place. You may, or may not, have 'security of tenure' depending on whether certain forms were served on you by the landlord before the start of the lease. Even if you have security, the landlord can oppose the grant of a new lease if they can prove certain grounds for possession.

- A lease will automatically come to an end if the tenant moves out on the last day of the lease.
- If you have security and you stay on, then the lease is continued on the same terms until either party serves a three month statutory notice, and the rent is payable until the end of the notice period.
- If you have security and want to apply for a new lease, then you must serve a special notice on the landlord giving at least six months and no more than 12 months notice expiring no earlier than the end of the contractual term, and stating your proposals for a new tenancy.

What about a Landlord's Rights?

- If a landlord wants to bring matters to a head then they can serve a notice on the tenant stating whether they are willing to grant a new tenancy or whether they want the tenant to leave, and they can apply to the court also.

- The landlord can only object to the tenant getting a new lease on certain specified grounds - such as a tenant persistently being late in paying rent, not keeping the property in good condition, being in breach of covenants under the lease or others relating to the landlord wanting to redevelop or occupy the property themselves, for example. If the parties cannot agree either on the terms of a new lease or whether or not the tenant is entitled to a new lease then the matter goes to court.

When Do Problems Arise?

Many business tenants find that their problems start when they leave the premises they have been renting. They may find that the landlord serves them with a 'schedule of dilapidations' setting out repairs costing perhaps, thousands of pounds, and claims months of rent for the period the repairs take to be done.

Tenants need to take legal advice well before the end of their lease to make the right decisions.

Key Points to Consider Include:

- Do you have the right to stay on, or was the usual 'security of tenure' was excluded when the lease was granted.
- If you have 'security', whether the landlord might be able to establish one of the grounds to remove you anyway.

- If you have a 'break clause' in the lease, how to make sure you serve the right notice at the right time
- How to minimise the chance of huge repair bills as the end of the lease
- What is your responsibility to repair and which items are the landlord's responsibility.
- There may be deposits to be returned and calculations of service charges and insurance to check to ensure you are not overcharged.

Sorting Out Repairs

Other than arguments about rent and notices, most disputes at the end of leases are about 'repairs'. Most leases are 'FRI' in other words the tenant has to put the property into full repair and decorate it before they hand it back to the landlord. The property may have been in very poor repair when the tenant moved in but if it is a 'FRI' lease the tenant will have to put it into A1 condition before he moves out. If the tenant moves out without doing this the landlord will send his surveyor in to prepare a schedule showing all the works needed and this is called a 'schedule of dilapidations'.

Some tenants, though, will have agreed at the beginning of the lease that they don't have to hand it back in a better condition than it was when they took it on and will have

what is called a 'Schedule of Condition' attached to the lease. This may consist of photographs of the property when they moved in and a detailed description of any faults at the start. The tenant will not have to repair these faults and if the property was in poor condition at the start the tenant can hand it back in similarly poor condition.

Staying On

If you want to stay on you might find it is better to serve a statutory notice on the landlord asking for a new lease. You might find that the landlord serves a notice on you saying either that he will offer you a new lease or that he wants you out. In either case you need to follow the correct procedure or risk losing your rights.

How Can We Help?

Our experienced property team can help you with all of your lease related issues, from structuring new lease agreements to advice on ending existing leases.

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