



COMMERCIAL PROPERTY LEASE DUE FOR RENEWAL

Most tenants have the right to renew a lease and usually the lease sets out all the terms which both the landlord and tenant must abide by.

When a business lease comes to an end a business tenant may have security of tenure i.e. most tenants have an automatic right to renew their lease at a revised (market) rent on similar terms to the original lease.

This guide explains how commercial lease renewals work once your current deal has expired.

WHAT IS THE LANDLORD AND TENANT ACT 1954?

When renewing a commercial property lease, many leases are protected under the [Landlord and Tenant Act 1954](#), a piece of UK law which ensures a business tenant cannot simply be thrown out.

In certain circumstances, this Act also gives business tenants rights when it comes to renewing a lease at its end. Even if a lease does reach its expiry date, the 1954 Act means it does not automatically come to an end. Potentially, it could carry on indefinitely until one of the termination procedures outlined in the act are triggered to bring about its conclusion. If neither party initiates the lease renewal process, things will continue under the same terms under a process which is known as 'holding over'.

WHEN IS THE BEST TIME TO RENEW A COMMERCIAL PROPERTY LEASE?

If your commercial property lease is coming to an end soon and you want to renegotiate it, the best time to do this is between 6 to 12 months before its end date. Commercial leases are a complex area of law so it is vital to good legal advice from a [solicitor](#). This is the same whether you're a landlord or tenant – so it's important to know and consider all your options at this stage.

CAN A LANDLORD INITIATE A LEASE RENEWAL?

If you're the landlord and want to initiate a lease renewal, you need to serve a 'Section 25' notice on your tenant between 6-12 months before the termination date specified in the lease.

If the lease is holding over, you must state a date in the future which is at least 6 months after the notice has been served. This notice must clearly state your proposed new terms or the reason why you do not want to issue a new lease.

If your tenant opposes the new terms, and both parties cannot reach a suitable agreement, either one of you can ask a court to reach a decision and set 'fair' terms.

CAN A TENANT INITIATE A LEASE RENEWAL?

If you are the tenant who wants to start the renewal lease process, you must serve a 'Section 26' notice on your landlord between 6-12 months before the proposed start date of the new lease.

A tenant is legally entitled to propose terms, but if both parties cannot reach an agreement on what is 'fair', either one can apply to a court to set them.

This said, even if renewal terms cannot initially be agreed, it is rare for proceedings to end up being resolved in court.

Your solicitor should in the first instance try to get agreement and settlement or use independent arbitration (usually specified in the lease) before moving to the court system as opposed and defended lease renewal disputes can involve time consuming processes, cause long delays and be expensive.

CAN MY LANDLORD REFUSE TO RENEW A LEASE?

If the lease is protected under the 1954 Act, a landlord can still object to a lease renewal requested by a tenant, but they must explain why and on what grounds, in accordance with the permitted reasons laid down in the 1954 Act.

A landlord cannot oppose a lease renewal simply because they do not like the tenant. But if they do not want to offer a new lease, they must serve a counter notice within two months to confirm the grounds why not.

There are several grounds on which this can be done, the two most common are:

- Landlord requires premises for purposes of its own business
- Redevelopment of premises

Others reasons include:

- Non-payment of rent
- Breach of covenant to repair

WHAT IF MY LEASE DOES NOT HAVE PROTECTION UNDER THE 1954 ACT?

Whilst many leases benefit from protection under the 1954 Act it is also possible for the protection to be expressly excluded within your lease when it is granted. Security is often excluded where the lease is for a short term or where the landlord may require the property back after the initial lease period.

To formally exclude the protection under the lease, the landlord needs to serve an appropriate warning notice on the tenant and obtain from them a declaration to confirm that they acknowledge the consequences of excluding the protection to ensure that the exclusion is valid.

Where the protection has been excluded, the tenant can be asked to vacate the property at the expiry of the contractual term and there is no automatic right for them to remain in the property. Therefore, if you are a tenant with such a lease and you wish to remain within the property, you are advised to contact your landlord at an early stage to try and agree terms with them for the grant of a new lease to avoid you needing to vacate the property at the end of the term.



COMMERCIAL PROPERTY LEASES

It is also possible to enter into a “reversionary lease” which is a lease that can be granted at any time during your current lease term but where the term starts from a future date i.e. the term of that lease could start from the contractual expiry date of your existing lease and run for the new term. A reversionary lease can be useful if you have decided that you would like to invest or commit long-term to the property but only have a relatively short period left on your lease.

Landlords should also note that a tenant can acquire protection even where their initial lease excluded protection in certain circumstances where the tenant remains in occupation after the expiry of the contractual term. Landlords should pro-actively consider and discuss with their solicitor how they wish to deal with any such renewals.

WE CAN HELP

At Stephen Rimmer our team works with a wide range of businesses and investors across all areas of commercial property law. With a strong commercial mindset, our solicitors offer pragmatic advice tailored to your priorities and business goals.

Follow [this link](#) for an introduction to the Commercial Property Team or call us on 01323 434 420 to see how we can help you.