

CAN LANDLORDS AFFORD TO ACCEPT MONTHLY RENT PAYMENTS?

Some tenants are asking their landlords if they can pay their rent monthly rather than quarterly for cashflow reasons. Before agreeing to this landlords should bear the following in mind:

- Check any loan facility arrangements which usually anticipate that the landlord will receive a three month rent payment in advance on the usual quarter day. If the landlord accepts monthly rent payments instead, will the landlord have sufficient cashflow to meet its own debt payment obligations?
- Following on from the above, the landlord should also check its financial covenants to ensure that monthly rather than quarterly rents will not result in an inadvertent breach.
- If managing agents are appointed, are they only obliged to collect and forward rent on a quarterly basis? If so, any changes to this arrangement may have to be agreed with the agent.
- If there are former tenants or guarantors, the landlord must be careful that they are not released from liability. If there are any rent arrears then default notices under Section 17(2) of the Landlord and Tenant (Covenants) Act 1995 must be served on time. They need to be served on former tenants within the period of six months beginning with the date when the rent became due.
- If there is a guarantor check that the terms of the guarantee allow the landlord to compromise the tenant's rent payment obligations. The landlord must be very careful not to allow any agreement with the tenant to constitute a variation of the lease since a variation will release the guarantor from all liability. A practical answer is to ask the guarantor to agree the change and to acknowledge that it is not a variation. The change is then often documented by use of a side letter rather than formal deed.
- Will a monthly rent payment have any impact on future rent reviews and any
- conditions in relation to a tenant's break clause?

If you wish to discuss any of the issues raised in this article, or for information on any other commercial property matters, please contact Jenny Harbord of Murrell Ashworth LLP using the following details:

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