

Bucking the trend (Commercial Rent (Coronavirus) Act 2022)



Hyde Park South Limited brings a successful arbitration claim for relief from protected rent arrears under the Commercial Rent (Coronavirus) Act 2022.

Background

The applicant, Hyde Park South Limited (Astor) has a lease of premises at 191 Queen's Gate, Kensington from which it operates a backpacker hostel known as Astor Hyde Park Hostel.

The landlord is the Royal Commission for the Exhibition of 1851 and is a registered charity.

The applicant tenant was represented by Cripps LLP and the respondent landlord was represented by Farrer & Co LLP.

Reference to arbitration

Astor made a reference to Falcon Chambers Arbitration under the Commercial Rent (Coronavirus) Act 2022 for relief from payment of protected rent debt which had accrued during the Pandemic.

The arbitration claim was necessary as the business had been severely impacted by the effects of the Coronavirus regulations.

The hostel was forced to close to new arrivals and by April 2020 there were only 10 paying guests. Business



started to pick up in the summer of 2020 but then the Omicron variant struck and the hostel was back to having just a few residents.

As a result, Astor went from turning over almost £1,000,000 in the year prior to the Pandemic to just £118,000 a year later, leading to a loss before tax of more than £300,000. In the meantime, the business had incurred substantial commercial rent arrears.

Relief from a substantial proportion of the protected rent debt was needed to preserve Astor's viability in accordance with the guiding principles of the CRACA 2022.

The parties' proposals

Astor proposed that 80% of the protected rent debt and the interest accrued on the protected rent debt be written off with the balance to be paid over a 2 year period in order to preserve its viability. This meant that the protected rent debt would be reduced by £157,515.96, leaving a balance of £39,378.99 to be paid over 2 years.

The Royal Commission proposed that the protected rent debt be reduced by £50,000 to £146,894.95 repayable by equal quarterly instalments with interest being written off.

The Award

The arbitrator, Elizabeth Fitzgerald, said that both proposals were consistent with the principles of the CRACA and that "As such, I must decide which is the most consistent proposal and make an Award in terms of that proposal".

The arbitrator concluded that Astor's proposal was the most consistent with the principles of the CRACA and that the higher level of relief reflected by their proposal was needed to ensure that their business would remain viable.

The Award represents a departure from the majority of awards made by the panel where the level of rent arrears have not been reduced but applicants have been given more time to pay. In this case, the arbitrator recognised that a significant reduction in the protected rent debt was necessary to preserve the viability of the business in accordance with the guiding principles of the CRACA.

[Read the Award in full.](#)

How we can help

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