

Pandemic Rent Suspension Clauses on Lease Renewals: Round 2



On 11 May 2021 we reported on the outcome of the WH Smith lease renewal proceedings.

In *WH Smith* one of the issues the County Court had to consider was the manner in which a pandemic rent suspension clause would operate, the principle of its inclusion in the lease having been agreed. Judgment was handed down last week in the unreported case of *Poundland Limited v Toplain Limited*, a case in which the court had to consider whether or not a rent suspension clause should be included at all on a lease renewal under the Landlord and Tenant Act 1954.

The rent suspension proposed by the tenant was a 50% reduction of rent during circumstances in which Poundland was prevented from using the premises. The judgment does not set out in detail when the clause might be engaged, so we do not know whether it was to be engaged when the premises could not be used at all for any reason or in certain defined circumstances only. Nor do we know whether it would be engaged if the premises could physically be used in part and/or whether it would be engaged if the tenant could open but for limited circumstances (e.g. for the sale of essential goods) only.

In support of the inclusion of such a provision the tenant argued that:

- The clause benefitted both parties. If the tenant was required to pay full rent during such periods the tenant may have some difficult decisions to take. However with the benefit of a reduced rent it would be more likely that the tenant could retain the lease and (assuming it was permitted to) trade from the premises; and
- Clauses such as this are becoming more common and indeed can be seen as being agreed to by the



landlord in the WH Smith lease renewal case.

How we can help

If you are a commercial landlord or tenant seeking advice about a rent dispute, contact our [property disputes team](#).

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