

TENANTS IN FINANCIAL DIFFICULTY – LANDLORDS’ REMEDIES

In these difficult economic times, the commercial rental properties sector is being hit hard.

Both landlords and tenants are suffering.

The inability of tenants to pay rent has serious consequences for many landlords who lose what in some cases is their main income stream.

What can landlords do in such circumstances?

Understanding the rights and liabilities a landlord has against all of the other parties is the first essential step. This enables the landlord to consider the tactics most appropriate to his particular circumstances.

- The landlord may first wish to consider whether anyone else is liable to pay the rent.
- Is there a guarantor?
- Is there a rent deposit deed from which funds can be drawn?
- Are there former tenants or guarantors who remain liable?
- Is there a sub-tenant upon whom a rent diversion notice may be served?

There are other options open to the landlord which include:

- The issue of court proceedings to obtain a judgment for any sums owed, such as rent.
- The presentation of a statutory demand which is a formal written demand for payment of debt which exceeds £750 within 21 days. If the debtor, in this case the tenant, does not pay within 21 days a creditor, in this case the landlord, can present a petition to the court for bankruptcy or winding-up.
- The landlord may chose to instigate the exercise of distress, that is the seizure of goods to the value of the rent owed from the rented property.
- The landlord may wish to consider the forfeiture of the lease by the peaceable re-entry of the property and the recovery of possession of it. In such circumstances the lease comes to an end and so the landlord is free to offer the property elsewhere. However, the landlord must be aware that the tenant’s future liabilities have also been extinguished.

The decision on the best course of action in these difficult circumstances requires careful consideration, not only of the provisions of the lease of the property, but all external factors influencing the particular circumstances affecting the particular property.

Here at Pardoes we pride ourselves on giving practical and clear advice.

Contact our Commercial Property Team on 01278 457891.