



Eatons

Rent Payable During Notice Period

The courts often have to deal with disputes over the payment of rent and charges for the period after a tenant has given notice to vacate a let property. A recent case concerned just such an issue.

The circumstances were that premises were occupied under licence, with the licensee paying £450 plus VAT per month.

The licence could be determined by either party by giving a month's notice. After a short period, the licensee and the landlord agreed that the licensee could make a one off payment of £6,000, to cover the VAT inclusive charge for occupancy for the next 12 months. This represented a discount of approximately £25 plus VAT per month.

The licensee emailed the property owner to confirm that during the 12 month period for which the charge was prepaid the property owner's right to give a month's notice, as provided for in the licence, would be suspended.

About eight months later, the licensee gave notice to terminate the agreement and claimed the balance of his prepayment back from the landlord.

In court, it was ruled that the licensee's email had only suspended the landlord's right to terminate the arrangement on a month's notice, not his own. Therefore, the balance of the payment was refundable. The landlord appealed to the Court of Appeal.

The Court of Appeal took account of the email, but considered that it must be regarded as preventing either party from exercising the right to terminate the arrangement on a month's notice. The occupier had secured the right to occupy the property for the full 12 months by making the payment, but could not then demand a refund for leaving the premises earlier, nor could the owner of the property compel him to vacate it before the 12 month period was up.

Contact Jeremy Parker for advice on any commercial property matter.

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