

PRESS RELEASE

STEPHENS & SON

SOLICITORS

Q&A

Q: 'My tenant says his business is suffering. He wants to pay rent monthly, instead of quarterly and he wants a reduction in rent. He has been a good tenant and in this market I am unlikely to get anyone else to take on these premises if the tenant goes under and I want to help him. What should I do?'



A: This question was raised frequently during the 1989 property slump. Some rentals have not returned to their pre 1989 levels, so what you agree now may have very long term consequences.

Examine the lease. Does it already permit monthly payments? Often rent payment provisions under the lease have been ignored/not read and the lease already covers this.

Rent Reduction is another issue. You must decide how long the reduction will last. Is it for a fixed period with the rent reverting to where it was, or will it last until the next rent review or end of the lease?

Is the reduction for this tenant only or will the tenant's successors benefit too?

Bear in mind that you want to help this tenant and not necessarily someone he sells his lease to.

If the tenant does not maintain his payments then you will want the arrangement to cease and the old rent and payment regime to revive; this influences any claim that you may have.

It also affects the balance sheet value of your property and possibly finance secured on the property. If the property is mortgaged then you may well need the mortgagee's agreement or be in breach of the terms of your finance agreement, and they could call in the loan or refuse to renew your existing agreement. The consents of any lender must be given in writing.

There will be tax consequences so your accountant must be informed.

Finally, the arrangement must be documented so everyone knows where they stand. Even a very short-term arrangement should be recorded in writing. Your solicitor will advise on the form the documentation should take. Remember, this could save you a lot of money in the long run.

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