

Your Legal Questions

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Q. My business is not doing very well at the moment and I want to get out of my lease. The lease contains a break clause but I do not really understand it. Can you explain this please.

A. A break clause in a lease is a clause that allows either a tenant or a landlord to bring the lease to an end early. The mechanism is usually that whoever wishes to end the lease serves notice on the other party, usually 6 months' notice is provided, after which the lease comes to an end. Often there will be provision that the rights of the parties will still apply in relation to any outstanding breaches of terms of the lease. This means that the landlord would preserve his right to pursue you for outstanding breaches of your repairing obligation, known as dilapidations.

The lease may also include provision that the break will apply provided the rent has been paid up and the tenant has observed the covenants in the lease. This is important because if neither have been complied with then the landlord is not obliged to accept the break. It is therefore important to realise firstly whether there are any outstanding breaches of the lease and secondly to remedy them. It is also useful to agree with the landlord what would need doing. In the case of remedying dilapidations, you should try to agree with the landlord a time frame for inspecting and completing those works prior to the expiry of the notice to ensure that the break operates.

Break clauses are fraught with difficulty and it is very important that you seek legal advice before seeking to exercise any right to break to ensure you are able to walk away when the notice period expires.

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