

Rent reviews

What are rent reviews?

Your lease will state when reviews happen - usually every three to five years. It's designed to adjust the rent to the current market level at the review date.

Can rents go down as well as up?

It depends on the lease. Some say the rent will remain the same or increase (if market rents have increased) at the review date. This is called an 'upward only' rent review clause. Other leases will let the rent to go either up or down, depending on market rents at the time.

Are rent reviews the same in all leases?

No. Most leases should reflect your particular the needs. If you're not sure about the rent review clauses in your lease speak to your chartered surveyor or solicitor.

How do rent reviews work?

First the landlord gives you written notice that the review is about to happen. A specific figure will be quoted for the new rent. If this does not seem reasonable, you must write and say so immediately. If you miss the deadline for saying so you'll have to pay what the landlord is asking.

What happens if I don't agree with the new rent?

Speak to you chartered surveyor or solicitor about negotiating directly with your landlord to agree a new rent. Above all don't ignore the problem - it doesn't go away.

If you're still not happy check your lease. It should set out the procedure for resolving the disagreement. Normally, it will say that you and your landlord need to appoint an independent third party (a chartered surveyor specialising in valuation) to decide the new rent. If you cannot agree who that should be, the lease usually states that the president of RICS will choose someone for you.

Remember, just because a third person is involved doesn't stop you trying to settle directly with your landlord.

Depending on what it says in your lease the independent third person may act either as:

An 'arbitrator' - although similar to a judge, the arbitrator's process is less formal than a court. They still hear evidence from each party and reach a decision called an 'award'.

Or

An 'independent expert' - they too may receive evidence and listen to arguments, but unlike the arbitrator they can make their own investigations to work out the suitable rent and reach a 'determination'.

Using an independent third party is a fair, final, informal, relatively quick and best of all cheap way of settling disputes about rent, without having to go to court.

How is the new rent fixed?

The third person assesses your rent by looking at rents agreed on the letting, rent review or lease renewal of similar properties let on similar terms at roughly the same date. But remember that, if the rent review is upward only, your rent will adjust to the open market rental value, only if this is higher than your current rent.

The decision - an arbitrator's 'award' or independent expert's 'determination' - is usually given after their fees have been paid.

Who pays for the arbitrator or independent expert?

The arbitrator or independent expert will ask you and your landlord to agree to their fees first. You can negotiate the fee but the arbitrator or independent expert has a duty to proceed even if agreement has not been reached.

In the case of the independent expert, both parties pay an equal share, unless the lease says otherwise. In arbitration, the arbitrator has complete freedom to decide who pays what. If you or your landlord feels the fees are too high, you can challenge them in court after the rent review has been settled.

Do the landlord and I need to be professionally represented during these proceedings? Not necessarily, the proceedings are fairly informal. However, expert advice is essential, both in interpreting the precise terms of the lease (which will have an effect on your rent) and in getting information on other premises that may influence the level of rent. Landlords are very often advised by chartered surveyors and may be expert in property matters themselves. The RICS Contact Centre can give you names of local specialist chartered surveyors.

Presenting a case to an arbitrator without professional help can be risky. As well as presenting specific evidence of similar local rent levels your surveyor can also give an opinion as an 'expert witness', based on professional knowledge and judgment. Where disputes are referred to independent experts, presenting a case may be less important because they have to make their own investigations and use their own knowledge. Nevertheless, it is still risky to present a case without professional help.

When does the new rent become effective?

Once the award or determination has been given, you will need to pay any increase in the rent immediately, back dated from the rent review date, even if that date has passed. Often, leases will state that you need to pay interest on the increase from the review date until the date of payment.

Is an award or determination final?

Essentially, an arbitrator's award is final and binding, though in rare cases involving points of law or misconduct by the arbitrator the High Court has the power to set it aside. There is no right of appeal against an independent expert's determination. However, if you can show that the award or determination has been negligent, it may be possible to sue for compensation by way of damages.

Are there alternative/cheaper ways to settle a rent dispute?

Yes. You can always refer the dispute to a mediator. This could produce a quicker and cheaper solution, although the mediator would have no authority to impose a rent upon either of the parties.

Further information

You'll get clear, impartial, expert advice on the issues from an RICS member. They are highly qualified professionals with the letters MRICS or FRICS after their name, and are bound by strict codes of conduct. These are your guarantee of their skills, integrity and depth of experience. Whatever type of business property you have, chartered surveyors will provide you with the right advice.

Chartered surveyors are members of RICS, one of the most respected, independent organisations for professionals in property, land, construction and related environmental issues worldwide.

For more on how RICS members can help you, and to find a surveyor near you, contact:

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