

# When tenants don't comply with liabilities

THE first issue for the landlord to consider is whether he intends to take action against the tenant whilst the lease is still current or after it has expired.

Whilst he has a number of options open to him during the term of the lease, he has only one option available after it has expired – damages (or compensation). The following courses of action are some of the options for the landlord to consider:

●**Damages:** damages can be pursued both during the term of the lease and within a reasonable time after the end of the lease. Certain statutory limitations apply so that, for example, the landlord can only recover the amount by which the value of his interest in the premises is reduced by reason of the tenant's breach of covenant.

Further, if the claim is made by the landlord at the end of the lease, no damages will be payable if the premises are to be demolished or structurally altered so as to make the required repairs worthless.

Landlords should consider applying the Property Litigation Association's Protocol for dealing with such end-of-lease damages claims.

●**Forfeiture:** amongst the other options for a landlord to consider is the ancient remedy of forfeiture. Most commercial leases contain a forfeiture clause and the presence of such a clause enables the landlord (in certain circumstances) to bring the lease to an end and take possession of the premises.

Forfeiture has often proved to be a contro-



Landlords of commercial premises can find themselves faced with the situation where, despite obligations under the lease, a tenant fails to comply with repair liabilities. What action is open to a landlord in such cases? **Matthew Rodgers** of Bell & Buxton Solicitors investigates

versal remedy for a landlord due to its draconian nature and it is presently the subject of proposed reforms.

●**Order of specific performance:** a third option for a landlord is to look for an order of specific performance from the court. In such a case the court would order the tenant to keep the property in the state of repair as is required by the relevant lease covenants.

This remedy is, to a certain extent, untested at present in relation to breach of a repairing covenant. A 1998 case has suggested that there is a possibility of specific performance being available to the landlord in such a situation but no successful claim has yet been brought.

●**Self-help:** the final option for a landlord is what is known as "self-help". This remedy relies on a provision in the lease which provides the landlord with the right (in certain circumstances) to enter the premises, carry

out repair works and recover the costs of doing so from the tenant.

The statutory restrictions which apply to damages do not apply in this type of situation. It is important for the landlord, when exercising self-help, to stick closely to the terms of the relevant clause and it should also be noted that it is open to the tenant to argue that the costs incurred by the landlord are excessive.

This is a brief overview of the types of action open to a landlord and full consideration, in consultation with your solicitor, should be given to the facts of each case prior to making any decision.

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## HI-TECH FIRM MOVES TO EUROPA VIEW

EXPANDING high-tech company Fujitsu Siemens Computers IT Product Services Ltd has moved its Sheffield operations centre from the city centre to state-of-the-art premises at Sheffield Business Park.

The company had outgrown its offices in Fountain Precinct and the relocation to a 20,000 sq ft unit on the park's Europa View development provides the scope to expand to meet current and future customer demand for its services.

"We needed more space to meet the demand for our growing IT managed services business but we wanted to stay in Sheffield both logistically and for our skilled staff," says Fujitsu Siemens Computers' IT Services Ltd MD Paul Parrish.

"When we first visited Sheffield Business Park we were impressed with the quality of the development – and the decision to move here has proved to be the right one. The accommodation meets our requirements perfectly, providing the work environment we need for our skilled people, and the location just off Junction 33 of the M1 allows us to serve our clients even more efficiently."

The new Sheffield operations centre provides a base for the company's IT engineering and support services. New recruits have already joined the 160 staff previously based in the city centre, with plans for further recruitment to meet growing demand for the company's portfolio of IT managed services. Fujitsu Siemens Computers' new home on Europa View stands next to the UK headquarters of Stanley Tools, the Kidz @ Work nursery and the park's management suite.

Sheffield Business Park Manager Rebecca Wyatt says the company is the



Sheffield Business Park Manager Rebecca Wyatt with Andrew Gibson, Fujitsu Siemens' Distributed Services Operations Manager

latest recruit to a growing community of high-tech businesses including Fluent Europe, Transaction Network Services, Networks by Wireless and ITM Power. "These are cutting-edge businesses that require high-class accommodation tailored to their requirements. The fact that they can find what they need here is good for us and good for Sheffield." The 200-acre business park site has so far created more than 3,000 jobs and is currently undergoing further expansion, with almost 30,000 sq ft of office space on the Europa Green complex now ready for lease or sale.

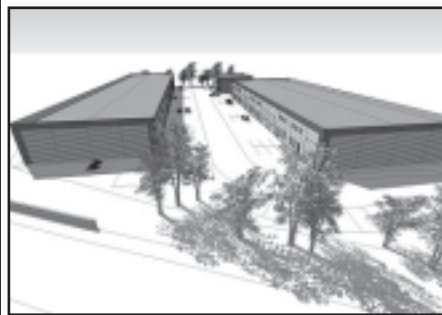
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