

INTERIM RENTS

- Avoid the pitfalls of automatic interim rent applications
- Clear financial benefits with the right approach
- Understand the rules for successful negotiation

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It is widely known that when a tenancy continues by virtue of the Act, either the landlord or the tenant can apply to the court to determine the rent payable from the expiry of the old lease until the date the new lease comes into effect. An interim rent application may be made at any time after the s.25 notice or s.26 request has been served, but it must be made by a date no later than six months after the termination of the 'relevant tenancy'.

Lesser known facts include:

- An interim rent application may be made even when the terms of the renewal are not being contested.
- If a new lease is not entered into, the 'relevant tenancy' can be terminated three months after the application for a new tenancy is finally disposed of either through court proceedings or through the tenant discontinuing its application for a new lease.
- The date from which interim rent is actually payable is called the 'appropriate date'. It is the earliest date to terminate the lease which could have been specified in the landlord's s.25 notice or the tenant's s.26 request.

Knowing the above is valuable as:

- It is wrong to assume that tactical considerations of the timing and application for interim rent have been eliminated.
- There are good reasons to either include or exclude the interim rent element of negotiations from the residual discussions on lease renewal.

Valuers must be aware that there are two methods of calculating interim rents. There may be situations where it is advisable that no interim rent application is made. It is also possible to delay an interim rent application as financial benefit can be achieved as a consequence.

The message is clear – knowing if or when to make an interim rent application and the prospect of the 'old method' of valuation being adopted will enable parties to maximise their negotiating position and be financially beneficial.