

Who Signs the Lease Renewal?

Lease
renewal

By Brian Madigan LL.B.

From time to time, there will be a change of ownership in a company. Possibly it will be taken over by another company or maybe the owners will simply change during the period of occupation of the premises.

So, what happens when the lease comes up for renewal?

Most of the time, if the payments have been “on time”, the Landlord will simply agree. But, actually there has been a material change in the ownership. New people are in charge. The prior owners controlled the Tenant company and now they do not. What should the Landlord do?

It’s reasonable to request some information. Possibly a credit check is in order! What about the new parent company guaranteeing the terms of the lease? There are protections that are available, and rarely are they employed by Landlords at lease renewal times. They often think”same old... same old... what’s the difference”.

Truly, they are dealing with a brand new Tenant and they should treat the Tenant as such.

Let’s approach the question a little differently. Let’s assume that you were the Controller of a large multi-national company, ABC Mega Corporation. You just bought XYZ Mini Company and it’s really just too small to be profitable in its present location. Let’s assume further that there is one year to run on its lease. When you bought XYZ, you guaranteed to the owners that you would pay the balance of the lease. So, that brings you up to the renewal date. Now, you simply renew for 5 more years! But, if you wished, you might simply close down the XYZ business in the first year of the 5 year renewal term. Wind up the company. The XYZ name might have no future benefit to you, and ABC Mega Corporation is not liable on the lease. You would be a hero at ABC.

Now, let’s go back to our Landlord in this situation. Get XYZ to tell you that there has been a change in control. Get credit checks done on both ABC and XYZ. Get

both to sign the lease, or simply ABC alone. This way, you'll be protected in the future.

Maybe there's nothing sinister about it. If ABC doesn't have the liability on its books for this lease, then it has a better balance sheet, and if it has a better balance sheet, it can borrow more money. That makes things riskier and more likely to go in the wrong direction, should there be a problem with ABC's industry in the future.

From the Landlord's perspective, it's better safe than sorry.

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