

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL & COMPENSATION ACT (NORTHERN IRELAND) 1964**  
**BUSINESS TENANCIES (NORTHERN IRELAND) ORDER 1996**

**In the Matter of Business Premises at**  
**Unit C16 and Part of First Floor C16, Ards Shopping Centre, Newtownards**

**BT/44 & 45/2007**

**BETWEEN**

**BOOTS THE CHEMIST LIMITED – APPLICANT**

**AND**

**BELFAST OFFICE PROPERTIES LIMITED – RESPONDENT**

**Lands Tribunal – Mr M R Curry FRICS IRRV MCI.Arb Hon.Dip.Rating Hon.FIAVI**

1. The tenant holds premises at Ards Shopping Centre under three separate leases. One is in respect of the main part of Unit C16 and there are two further leases in respect of additions to that demise. Two Tenancy Applications were made to the Tribunal - in respect of two of the leases. The Applicant stated that it was seeking a lease of 10 years with a 5 year break option.
2. The Tribunal made directions, including arrangements for preparation and exchange of expert opinion evidence, for a hearing on preliminary issues.
3. On 5<sup>th</sup> March 2008 the Tribunal received two communications from the Solicitors for the Applicant. One was accompanied by the expert evidence. The other noted that one of the Tenancy Applications referred to the wrong lease and enclosed amended Tenancy Applications.
4. In its letter to the Tribunal the Applicant's solicitors confirmed that lease of 10 years with a 5 year break option was its preferred option. However, they also stated that in the alternative, the Applicant would wish to take a 5 year lease, not a 10 year lease. The correspondence noted that the amended Tenancy Applications had also been sent to the landlord's solicitors.

5. When the matter came on for hearing it became apparent that the Respondent's solicitors had not been sent a copy of their letter to the Tribunal. So the Respondent had prepared its case without any knowledge of that alternative. The Applicant immediately conceded that the case could not proceed and also that it must accept responsibility for the Respondent's costs.
6. The Applicant then sought leave to amend the Tenancy Applications to include the alternative. The Respondent opposed that. Mr Horner QC said that fresh Tenancy Applications were required but it would not object to an extension of time to allow such applications to be made. He suggested that the alternative was an entirely different case and the Respondent's approach may well have to be different. He also suggested that the Respondent's approach to other tenancy negotiations in the Centre might have been different - but the Tribunal has no evidence of that. He referred to Boots the Chemist Ltd v Pinkland Ltd; Thorn EMI PLC v Pinkland Ltd [1992] 2 EGLR 98 as an example of a case in which an application to amend was refused.
7. Mr Orr QC suggested that fresh Tenancy Applications would simply build up new costs and lead to further delay.
8. This is an interlocutory application. Rule 12(6) of the Lands Tribunal Rules require:  
“(6) When dealing with any application under this Rule the [Tribunal] shall have regard, inter alia, to the convenience of the parties and the desirability of limiting so far as practicable the costs of proceedings, ...”
9. Compelling the Applicant to make fresh tenancy applications would only lead to increased costs and inconvenience through delay. The Tribunal permits the amendment of the Tenancy Applications.
10. The Tribunal directs that the Registrar list the case for mention at which it will make directions in preparation for a hearing.

**Appearances**

**Applicant - Mark Orr QC instructed by Tughans, Solicitors.**

**Respondent – Mark Horner QC instructed by Kearney Sefton, Solicitors.**