

Acceptance of Payment Causes Loss of Rights

A recent case involving a tenant that became insolvent should sound a warning bell for landlords. In this instance the tenant, which was a company, entered into a company voluntary arrangement (CVA) and the landlord accepted payments of rent after the due dates.

The relevant lease contained a clause which allowed the landlord to repossess the property if the tenant became insolvent or fell into arrears of rent. The landlord, therefore, applied for forfeiture of the lease. He failed in the Court of Appeal, which ruled that because the landlord had accepted the late payments of rent, he had waived his right to forfeiture of the lease and that the tenant's debts for arrears of rent were compromised under the CVA.

If your tenant falls into arrears of rent and/or service charges, take advice before you take action or even accept a late payment from the tenant.