

IN THE MATTER OF AN ARBITRATION UNDER THE COMMERCIAL RENT (CORONAVIRUS) ACT 2022

BETWEEN:

THOMAS SMYTH t/a JOINERS ARMS

Applicant

- v -

STONEGATE GROUP

Respondent

FINAL AWARD

The Parties and Premises

1. The Applicant, Thomas Smyth t/a Joiners Arms is the tenant in occupation of property at 35 Denmark Hill, Camberwell SE5 8RS. The Applicant seeks relief from the payment of a protected rent debt in relation to the premises pursuant to the Commercial Rent (Coronavirus) Act 2022 ("CRCA"). The Applicant is represented by Chris Wright of Protected Rent Debt – co.uk.
2. The Respondent, Stonegate Group is the Applicants' landlord pursuant to a lease for 30 years commencing on 31 October 2001 ('the Lease'). The rent is £58,290.00 a year with interest on arrears at 4% above the base rate. The Respondent is represented by Robert David Hastie from Wilberforce Chambers and Donna Withers from Stonegate Group.

Procedural Background

3. On 22 September 2022, the Applicant made a reference to arbitration (“the Reference”) in relation to the matter of relief from payment of a protected rent debt arising under the Respondent’s tenancy, the Reference being made pursuant to section 9 of the Commercial Rent (Coronavirus) Act 2022 (“CRCA”). The Reference was made to the Consumer Code for Online Dispute Resolution (“CCODR”), an approved arbitration body for the purposes of section 7 of the CRCA.
4. The referral form:
 - a. Identified the protected rent debt of £70,474 comprising rent arrears;
 - b. Confirmed that the Applicant had served notice of intention to make this reference to arbitration on the Respondent on 27 June 2022 in accordance with section 10(1) of the CRCA; and
 - c. Made a formal declaration confirming that the Applicant is not subject to any of the circumstances listed section 10(3) of the Act, namely:
 - i. there is no company voluntary arrangement which relates to any protected rent debt that has been approved under section 4 of the Insolvency Act 1986;
 - ii. there is no individual voluntary arrangement which relates to any protected rent debt that has been approved under section 258 of that Act; and
 - iii. there is no compromise or arrangement which relates to any protected rent debt that has been sanctioned under section 899 or 901F of the Companies Act 2006.

Appointment

5. On 30 September 2022, I was appointed as Arbitrator via an email from Mr Aaron Moore from the Consumer Code for Online Dispute Resolution (“CCODR”). I accepted the appointment in an email dated 3 October 2022 copied to the Parties.
6. The email for the Respondent bounced back and I requested confirmation of the email address from the Applicant. The Applicant confirmed that the email address was taken from the Respondent’s website and suggested that I contact the Respondent using the telephone number on the referral form.
7. I contacted the Respondent and Donna Withers Legal Manager (Operations) responded on 6 October 2022 with an email address.

Directions

8. On 7 October 2022, I wrote to both Parties directing them as follows:

“To the Applicant

- a. by 4pm on 14 October 2022, please confirm:
 - i. when the Referral was served on the Respondent;
 - ii. that the Referral included the Documents set out above; and
 - iii. that the Referral and the Documents include everything relied on to amount to the formal proposal pursuant to Section 11(1) of the Act.
- b. Any amended proposal, following receipt of a response from the Respondent, if any, shall be sent to me and served on the Respondent, by 4pm 28 days after the Referral, excluding the date of Referral.”

To the Respondent

- c. requesting confirmation by 4pm on 14 October 2022 as follows;
 - i. if and when the Referral and Documents were served;
 - ii. by 4pm, 14 calendar days (excluding the date of service) after the Referral and Documents were served on you, the Respondent shall send to me and serve on the Applicant any formal proposal in response along with supporting documentation, pursuant to Sections 11(2) and (3); and
 - iii. Any amended proposal with supporting documentation, following receipt of any amended proposal from the Applicant, shall be sent to me and served on the Applicant, by 4pm 28 days after your first proposal, excluding the date of your first proposal pursuant to Sections 11(4) and (5)."
- 9. The Applicant responded on 10 October 2022 confirming that notification of the intention to make a referral to arbitration was sent to the Respondent on 28 June 2022.
- 10. The Respondent submitted its Proposal and the documents on 14 October 2022 with the Respondent confirming that, "The Applicants' Proposal was received on 30 September 2022, so I believe this proposal is within the time provided by s.11(2) of CRCA 2022."
- 11. Given the differences of opinion by the Parties over the protected rent debt figure and the name of the Respondent, I issued Directions No2 on 14 October 2022 as follows:

"Having received the Respondent's formal proposal and supporting documents pursuant to Sections 11(2) and (3) of the CRCA. I hereby make the following directions ("Directions").

Any written statement provided to me, must be verified by a statement of truth pursuant to Section 12(2).

To the Applicant

By 4pm on 21 October 2022, please confirm the amount of rent arrears in dispute.

Any amended proposal, following receipt of a response from the Respondent, if any, shall be sent to me and served on the Respondent, by 4pm 28 days after the Referral, excluding the date of Referral.

To the Respondent

by 4pm on 21 October 2022, please confirm:

- a. the amount of rent arrears in dispute; and
- b. the full name of the Respondent in this matter.

Any amended proposal with supporting documentation, following receipt of any amended proposal from the Applicant, shall be sent to me and served on the Applicant, by 4pm 28 days after your first proposal, excluding the date of your first proposal pursuant to Sections 11(4) and (5)."

12. On request from the Applicant, I confirmed on 17 October 2022 that the submission date of the revised proposal was at the latest, 4pm on 28th October 2022.

13. On 25 October 2022, the Applicant wrote to the Respondent as follows:

"Noting that the parties can agree extensions between themselves (section 11 (6) (a). The Applicant does intend to submit a revised formal response but seeing as this is half term, we have postal strikes etc and my client is stuck with work and unable to reply I would suggest a delay until 11th Nov to submit any revised formal proposal in this case? We do of course agree in advance to extend the timings to the Respondent by the same, if this is agreed, please advise."

14. On 26 October 2022, the Respondent replied stating, “I confirm my client is agreeable to your proposal. The date for the Respondent’s revised proposal would be 25 November 2022.”
15. On 10 November 2022, the Applicant submitted its revised formal proposal and further documents.
16. On 25 November 2022, the Respondent submitted its revised proposal, referred to as the “Second Proposal” and requested that I issue Directions to the Applicant requesting disclosure of the documents below.
 - a. The last 12 months’ savings accounts, current accounts and loan accounts, including personal accounts.
 - b. Share certificates or other records of any investments or assets they own.
 - c. A statement on the first applicant’s mortgage account for 26 Overhill Road, SE22.
 - d. Financial or management accounts for the years after March 2019.
 - e. Details of the grants received or CBILs taken out.
 - f. EPOS till reports for the last 12 months.
 - g. VAT returns for the last 12 months.
 - h. Recent stocks sheets.
17. These documents, the Respondent claimed, were “highly relevant to the assessment of the Applicant’s asset position and viability. The documents would not be onerous to disclose, as they should be in existence and in the Applicant’s possession.”
18. In response, the Applicant noted “the repetitive requests for disclosure and can only say

that this scheme was set up for the settlement of commercial rent arrears and the adversarial style adopted by the Respondent for financial disclosure is above and beyond that which is even carried out by banks undertaking commercial lending or mortgaging. Coming from a landlord it does not add any value to a process where the Parties are not opponents and expected to work together.”

19. Given the above, I sought the clarification from the Parties on 28 November 2022 as follows:

“I acknowledge the communication between both Parties and the Respondent's request that I Direct the Applicant to provide the documents requested in its email dated 11 November 2022. Section 7.20 of the Commercial Rent (Coronavirus) Act 2022 Guidance states that "The parties can request further information from each other and/or can ask the arbitrator to make an order (under section 34 of the AA96) directing the parties to disclose information to the other party"

As a result, I require Confirmation by 4pm on 28 November 2022,

To the Respondent,

that you require Directions to be issued to the Applicant to submit documents referred to within your email dated 10 November 2022.

Section 7.7 of the Commercial Rent (Coronavirus) Act 2022 Guidance also states that the Parties may make one revised proposal. Confirmation on whether you wish to withdraw the revised proposal submitted on 25 November 2022. If yes, an application for the date of the revised proposal may be agreed with the Applicant or an application made directly to me...”

20. In response, the Respondent confirmed that disclosure of the documents was required and the revised proposal would not be revised adding that, “However, if, following disclosure, we do wish to revise our proposal we will seek further directions at that stage.”

21. Based on the Respondent's response, I issued the Directions No3 on 28 November 2022 as follows:

"On 14 October 2022, the Respondent requested further documents from the Applicant to enable the Respondent to determine if the Applicant's business would not be viable if they had to pay the protected rent debt. The Applicant failed to respond to this request and the Respondent repeated this request again on 25 November 2022.

In response to my request for clarification today, the Respondent confirmed its request for me to issue Directions to the Applicant to submit documents prescribed by the Respondent.

Section 7.20 of the Commercial Rent (Coronavirus) Act 2022 Guidance states that "The parties can request further information from each other and/or can ask the arbitrator to make an order (under section 34 of the AA96) directing the parties to disclose information to the other party". As a result, I accept the Respondent's request for Directions.

The Respondent prescribed the documents it wishes the Applicant to submit. I also note the Applicant's representative statement that the Applicant "runs a small modest pub business". I accept that the Applicant might not be in a position to provide all documentation required by the Respondent and might incur additional costs in doing so, which is not the intention of the CRCA. As a result, I do not accept that the volume of documentation requested by the Respondent as it is not proportionate to the scale and complexity of the Applicant's business. Section 1.3 of the Commercial Rent (Coronavirus) Act 2022 Guidance states that, "The Act provides a specific arbitration procedure to be followed which differs from usual arbitration practice. That is the procedure that the parties must follow and which the arbitrator must uphold. The Arbitration Act 1996 (the 'AA96') also applies to arbitration under the Act. However, to the extent there is any inconsistency between the Act and the

AA96, the Act (i.e., the Commercial Rent (Coronavirus) Act 2022) will prevail (see section 94(2) of the AA96).

Based on the above, I hereby make the following directions (“Directions”) modifying the request for documents by the Respondent under section 34 of the AA96 as follows.

To the Applicant

By 4pm on 12 December 2022, please provide the following documents,

- a. The last 12 months’ savings accounts, current accounts and loan accounts.
- b. Financial or management accounts for the years after March 2019.”

22. On the 14 December 2022, having failed to receive a response to Directions No3, I requested confirmation by 4pm from the Applicant that a submission will be made. The Applicant’s representative responded twice, noting initially that no documents had been received from the Applicant but then responding with some documents. I acknowledge the documents submitted and note the delay in submission.

23. I am therefore satisfied that the pre-arbitration stage has been met.

24. My award is made on consideration of the following documents provided by both Parties.

- a. Applicant’s statement signed by Thomas Smyth dated 15 August 2022. Formal and revised formal proposals verified by statements of truth as required under section 12(2) of the CRCA and signed by the Applicant’s representative dated 21 September 2022 and 10 November 2022.
- b. Respondent’s formal and second proposal dated 14 October 2022 and 25 November 2022 by Robert David Hastie of Wilberforce Chambers both verified by a statement of truth as required under section 12(2) of the CRCA.

- c. Documents submitted in the Applicant's list of documents identified within the Directions issued 7 October 2022.

Eligibility for grant of Relief

25. The first issue to be determined is eligibility under section 13(2) of the CRCA which I now consider below.

26. Section 1(1) of the CRCA provides that the Act enables the matter of relief from payment of protected rent debts due from the tenant to the landlord under a business tenancy to be resolved by arbitration provided the following conditions are met to determine eligibility;

- a. The tenancy in question must be a business tenancy;
- b. The rent debt in dispute must be a protected rent debt;
- c. The Parties must not have reached agreement on the matter of relief from payment of the protected rent debt; and
- d. It must be the case that the tenant's business is viable or would be viable if given relief from payment of a protected rent debt.

Business Tenancy

27. The Parties agree that the tenancy is a business tenancy with the Respondent stating as follows:

"It is agreed that the Lease is within the scope of this reference, as it is a business tenancy and that there is a protected rent debt ('PRD'), being rent accruing between 21 March 2020 and the 18 July 2021 ('the protected period')."

Protected Rent Debt

28. The Parties agree that there is some protected rent debt but disagree on the figures. The Applicants claim it is £70,474 whilst the Respondent maintains that the figure is £69,935.59 and has provided calculations of the figures.

Parties must not have reached agreement

29. The Parties have failed to resolve the matter of payment hence the referral to arbitration.

Viability

30. Viability is not defined within the CRCA, but the DBEIS Commercial Rent (Coronavirus) Act 2022 Guidance (issued under section 21 of the CRAR) states at paragraph 6.3: "In making the assessment of viability a key question is whether protected rent debt aside, the tenant's business has, or will in the foreseeable future have, the means and ability to meet its obligations and to continue trading.

31. The Applicant states in its formal proposal that "... by virtue of the current (post pandemic) rent being up to date that this demonstrates that the business the tenant runs is viable". The Applicant further claims that "The business is viable in ordinary trading conditions and should be viewed in that light in reaching any decision to grant relief".

32. In the Respondent's proposal, the Respondent believes that the Applicants are viable without any relief being granted.

33. The Applicant provided bank statements with increasingly low balances which calls into question the viability of the Applicant. However, I note that the Applicant has continued to trade, the bank statements indicate instances where incomings have been more than outgoings and the Applicant has continued to pay its rent post pandemic.

34. As a result, the requirement for viability has been met, I am satisfied that the requirements of section 3(2) of the CRCA have been satisfied and I will proceed on the basis that the parties have agreed the above, and resolve the matter of relief from payment of protected rent debt under s14 of the CRCA.

Section 14 of the CRCA

35. Section 14 of the CRCA applies in considering how to resolve the matter of relief from payment of a protected rent debt as required by section 13(5) of the CRCA, which states as follows.

“Before determining what award to make the arbitrator must consider any final proposal put forward to it by a party under section 11. (3) of the CRCA. Where both parties put forward final proposals under section 11 of the CRCA:

- a. if the arbitrator considers that both proposals are consistent with the principles in section 15, the arbitrator must make the award set out in whichever of them the arbitrator considers to be the most consistent;
- b. if the arbitrator considers that one proposal is consistent with the principles in section 15 but the other is not, the arbitrator must make the award set out in the proposal that is consistent.

36. I now turn to consider final proposals put forward by the Parties under section 11 of the CRCA for relief from payment.

Applicant's proposal

37. The Applicant proposes the following:

- a. That the amount of Protected Rent Debt is assessed as £70,474;

- b. The amount of relief requested is £70,474;
- c. If applicable, the Applicant be given relief from immediate repayment and time to pay any balance over 24 months; and
- d. Order that the Respondent pay 50% (half) of the Arbitrators fee, pursuant to section 19 (5) of the CRCA.

38. The applicant describes the impact on its business as follows:

- “Through no fault of my own, my business was forced to close, when allowed to open I was restricted in what I could do.
- The changes to the operation to make the business lawful put some people off coming and reduced the level of sales.
- My costs rose significantly when allowed to open under restrictions, this was associated with changes to the building or layout or when applicable increased staffing levels to meet the restrictions imposed by Government.
- My customers were furloughed, they were not in their usual routines work/life/family and or they avoided travelling as recommended by Government.
- My business insurance failed/refused to pay out for all the lockdown periods which were a period of extreme interruption. If they had paid out, as I had paid the premiums for, I would have paid the landlord and there would be no Arbitration needed.....”

Building up cash safety net is prudent and sensible, simply paying the PRD in full and hoping for the best is not – also it would mean the landlord did not share in the impacts which underline the policy behind the act”.

40. The Applicant adds that, “We do not claim that the Landlord was not impacted, but that by being an asset holder, they did not suffer anything like the same impacts as the Applicant, moreover the Respondents “office” based business from which they run the administration connected to the property was not closed or restricted unlike the Applicants business.”

Customer No.	Customer Name	Document Type	Document Class	Document Date	Due Date	Amount	Remaining Amount	Description
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06055: 16/12/2019	01/01/2020	1,239.99	1,239.99	Rent Invoice for period 25/12/19 to 24/03/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06089: 13/01/2020	01/02/2020	3,334.38	3,334.38	Reversal of CRD00403280 - 40022
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06094: 16/01/2020	01/02/2020	309.13	309.13	Rent Invoice for period 01/02/20 to 29/02/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06135: 17/02/2020	01/03/2020	309.13	309.13	Rent Invoice for period 01/03/20 to 31/03/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06174: 17/03/2020	01/04/2020	309.13	309.13	Rent Invoice for period 01/04/20 to 30/04/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06177: 18/03/2020	01/04/2020	17,110.00	17,110.00	Rent Invoice for period 25/03/20 to 23/06/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06191: 16/04/2020	01/05/2020	309.13	309.13	Rent Invoice for period 01/05/20 to 31/05/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06199: 15/05/2020	01/06/2020	309.13	309.13	Rent Invoice for period 01/06/20 to 30/06/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06220: 27/06/2020	15/07/2020	1,875.07	1,875.07	Rent Invoice for period 24/06/20 to 03/07/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06360: 23/09/2020	15/10/2020	6,012.46	2,542.71	Rent Invoice for period 01/10/20 to 31/10/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06407: 22/10/2020	01/11/2020	6,012.46	6,012.46	Rent Invoice for period 01/11/20 to 30/11/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06432: 21/11/2020	01/12/2020	6,012.46	6,012.46	Rent Invoice for period 01/12/20 to 31/12/20.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06457: 21/12/2020	01/01/2021	6,012.46	6,012.46	Rent Invoice for period 01/01/21 to 31/01/21.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06478: 22/01/2021	01/02/2021	6,012.46	6,012.46	Rent Invoice for period 01/02/21 to 28/02/21.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06496: 20/02/2021	01/03/2021	115.01	115.01	Rent Invoice for period 31/10/20 to 28/02/21.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06501: 22/02/2021	01/03/2021	6,040.98	6,040.98	Rent Invoice for period 01/03/21 to 31/03/21.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06517: 22/03/2021	01/04/2021	6,040.98	6,040.98	Rent Invoice for period 01/04/21 to 30/04/21.
40022	Mr T Smyth & Miss J Walsh	Invoice	RENT	INV06547: 22/04/2021	01/05/2021	6,040.98	6,040.98	Rent Invoice for period 01/05/21 to 31/05/21.

43. As the Applicant has not provided a breakdown of the protected rent debt, I accept calculations provided by the Respondent above indicating that the protected rent debt figure is £69,935.59.
44. The Respondent relies on Stephanie Tozer KC in the final award in KXDNA Limited 60 SA Limited para. 23 which states as follows:
- “It seems clear from this provision that (a) Parliament envisaged that there could (in at least some cases) be more than one figure which was consistent with the principles in section 15; and (b) the arbitrator is not entitled to substitute his/her own figure if one or more of the proposals made by the parties fall within the range of figures which are consistent with the principles set out in section 15. The purpose of this provision is obvious: it is to encourage parties to make sensible proposals.”
45. The Respondent states that the Applicant has c.£31,000.00 in funds and a payment of £20,000.00 would leave the Applicant with £11,000.00 working capital, more than is needed to meet the Applicant’s regular outgoings.
46. The Respondent states that the Applicant bears the burden of proof to prove its case on a balance of probabilities. The Applicant’s claim, the Respondent notes, does not “set out the section 15 test or apply that test to the factual situation of the Applicant’s and the property.” Instead, the Respondent maintains that the Applicant;
- a. “Rely on statements made during the progress of the bill about ‘sharing’ the impact (paragraphs 6 to 10). It is clear from *Pepper (Inspector of Taxes) v Hart* [1993] AC 593 that such material is only relevant to statutory interpretation if the Act or regulation is ambiguous. There is no suggestion that the terms of the CRCA and the accompanying guidance is ambiguous. Therefore, there is no need to consider such material.

b. Assert that the Respondent is better placed to suffer the loss (paragraphs 11 and 12, paragraphs 34 and 35). Where, as here, the landlord is not arguing that the relief would threaten their solvency, the financial position of the landlord becomes irrelevant to the statutory test. The Respondent is part of a group which is the largest owner of public houses in England and Wales. It is obvious that they would have suffered very significant negative impacts from the pandemic and the lockdowns. However, it is not about who is best placed to carry the impact. In cases where the landlord's solvency is not raised, the statutory test is solely focussed on the viability of the tenant.

c. Assert that the Applicant's business is viable which is not in dispute.

47. On the basis of the above, the Respondent maintains that "The Claim therefore is not compliant with s.15 of the CRCA and should not form the basis of an award."

Relief sought

48. The focus here is on the extent to which the Applicant can pay the protected rent debt considering, on the one hand, the viability of the Applicant's business, and on the other hand, the long-term solvency of the Respondent – so that a balance between the Parties can be achieved.

49. The Applicant's revised proposal rejected the Respondent's proposals stating that, "The Revised Formal Proposal (RFP) makes no request for any different level of relief, the Applicant sees no need to change the amount of relief they sought as the Respondent has simply not shared enough of the effects of the pandemic with the Applicant."

50. The Ministerial forward on the Code of Practice acknowledges the Government's promise to "...to do everything within its power to help struggling businesses weather the storm." As a result, packages of support brought relief to small business owners affected during the lockdown period. The Government also recognised that some of these packages might not

be fully sufficient and this code was designed to provide clarity for tenants and landlords “encouraging them to work together on resolving unpaid rent”.

51. The Respondent proposes that the Applicant be directed to make an immediate payment of £20,000. With the Applicant’s outstanding bank account balance of £[REDACTED] on 1 September 2022 reduced to £[REDACTED] by 14 December 2022, an immediate payment of £20,000 gives the Applicant a negative bank balance and could have an adverse impact on the ability of the Applicant to continue to run its business or pay future rent to the Respondent, which the Respondent admits that the Applicant has previously paid on time.
52. The Respondent’s second proposal states that, “Business Minister Paul Scully said on the introduction of the CRCA ‘Tenants who can repay their rent debts in full, should do so, and when they cannot, landlords should try to share the burden, so we can all move on’. I accept this statement as it is clear that from the 14 December 2022 bank balance that the Applicant would be unable to repay the protected rent debt in full or the £20,000 immediate payment proposed by the Respondent. Therefore, I do not accept the Respondent’s proposal for immediate payment of £20,000, as reasonable.
53. The Applicant proposed a 100% write off of the protected rent debt and refused to change the amount, instead insisting that a 100% write off is sharing the financial burden with the Respondent. The Government recognises that landlords and tenants have been affected by the pandemic, hence the Government’s policy of “sharing the financial burden”. Non-payment of rent is a real impact, that could, have a long-term impact on the long-term solvency of the Respondent. Therefore, I do not accept the Applicant’s proposal that writing off 100% of the protected rent debt shares the financial burden with the Respondent. The Applicant’s proposals are inconsistent with the principles set out within section 15 of the CRCA.

54. The Government still expects Landlords to share the financial burden in instances whether it could have an impact on the viability of the Applicant's business. The Respondent's proposal does not seek to share the "financial burden" with the Applicant nor does it indicate a willingness on the part of the Respondent to work with the Applicant to preserve their future relationship. As a result, the Respondent's proposals are also inconsistent with the principles set out within section 15 of the CRCA.

55. As proposals submitted by the Parties are inconsistent with the principles set out in section 15 of the CRCA, it now falls on me to determine the relief that achieves the right balance between the continued viability of the Applicant's business and the long-term solvency of the Respondent.

56. I also need to take into account delays and time used by the Parties representatives in what should have been a straightforward process. The insistence of the Respondent's representative on multiple documents and the failure of the Applicant's representative to respond to Directions No3 until prompted prolonged what should have been a straightforward process.

57. My determination is that the Applicant is entitled to some relief from the protected rent debt with the balance to be paid over 24 months. This would preserve the Applicant's viability while being consistent with requirement for the Applicant to continue to meet its obligations under the tenancy and allow the Respondent to share the financial burden with the Applicant.

58. Based on the above, the amount of protected rent debt is reduced by 55% from £69,935.59 to £33,219.41 with payments to be made in 24 monthly instalments beginning from January 2023.

59. Now I, Ekundayo Akande, having carefully considered the proposals and submissions of the

Parties, hereby award and direct as follows:

- a. The amount of protected rent debt to be paid to the Respondent is reduced by 55% from £69,935.59 to £33,219.41.
- b. The protected rent debt of £33,219.41 must be repaid beginning with 1 instalment of £1384.19 in January 2023 and 23 instalments of £1384.14 from February 2023.
- c. Interest at 4% above base on the protected rent debt will be waived.
- d. The Respondent must pay 50% (half) of the Arbitrators fee, pursuant to section 19 (5) of the CRCA.

Publication of the award

60. Pursuant to section 18(2) of the CRCA, I am required to publish this award. I intend to publish the award on the CCODR website. I have formed the provisional view that the sums in paragraph 51 contain commercial information which ought to be redacted from the award pursuant to section 18(4) of the CRCA. I will therefore publish the award in full on the CCODR website unless either party indicates to me by 4pm on 3 January 2023 that they wish me to do otherwise in which case I will consider any submissions put forward in relation to that issue together with any evidence submitted in support of any such submissions.

Seat of the arbitration

61. Pursuant to AA section 95(2), the seat of this arbitration is in England and Wales.

Ekundayo Akande LL. B, M.A, MBA, FCIArB on 2 January 2023 at the Consumer Code for Online Dispute Resolution (CCODR).