



**Commercial Lease
Specialists**

INFORMATION SHEET

Air conditioners

Legally Binding Documents

Reasonable Fixed Fees

Documents in 48 hours

Free Advisory Service

Rent Review Reminders

Extensions and Transfers

Of all the equipment generally classed as “Landlord’s plant” these seem to cause the most problems. Generally, the issues revolve around responsibility for maintenance and replacement costs and what is “capital cost”.

So here is what we know:

- our Leases provide that the air conditioner is the property of the Landlord (unless stated otherwise);
- the Landlord can choose to be responsible for servicing and maintaining the air conditioner and pass the costs on to the Tenant (except for capital costs);

OR

- the Landlord can choose to pass the responsibility for arranging servicing and maintenance on to the Tenant.

Most of the problems seem to arise when air conditioners have not been serviced or maintained regularly or have just got so old that they have stopped working.

Generally, the reason that they have not been serviced or maintained properly is that the Landlord has left it up to the Tenant who has not done it, for whatever reason.

One solution is that as a Landlord you take responsibility for arranging the maintenance with a reputable company and then pass the cost on to the Tenant. Don’t just leave it up to the Tenant and hope they do it.

What if it just dies completely?

If it was working when the Tenant moved in then they are entitled to expect that the Premises will continue to be supplied with a working air conditioner. In this case the Landlord has no option but to replace it and the Landlord cannot pass the cost on to the Tenant (the Retail and Commercial Leases Act specifically stops you passing on “capital” costs.

Don’t know what a “capital cost” is? You need to talk to your accountant.

Obviously, if the Landlord and the Tenant have agreed on something different to the above, then we can put it in the Lease as a special condition. However, we cannot override the Act even if both parties agree.

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