

In the matter of an Arbitration

and in the matter of The Commercial Rent (Coronavirus) Act 2022

DANIEL SUDBURY	Applicant
Trading as	
Alphabet Brewing Company	
v	
THE ARCH COMPANY	Respondent
PROPERTIES LIMITED	

AGREED AWARD

Introduction & the Parties

Introduction

1. The dispute relates to rent, service charges and interest due from the Applicant to the Respondent under a tenancy agreement dated 26th July 2014 of commercial premises at Unit No. 99 North Western Street, Manchester M12 6LJ ("the Premises"). The Applicant is the tenant under the Lease and the Respondent is the Landlord.
2. The Applicant carries on business at the premises operating a micro-brewery.
3. Arrears of protected rent and service charges have arisen and the Applicant has made an application under The Commercial Rent (Coronavirus) Act 2022 ("the Act") for relief.

The Parties

4. The Applicant is Daniel Sudbury trading as Alpha Brewing Company. The Applicant has been represented throughout by Mr Chris Wright of Protect Rent Debt.
5. The Respondent is The Arch Company Properties Limited a company registered in England & Wales under registration number 11516452. The respondent has been represented throughout by Ms Irsheya Ali of Realty Law.

Jurisdiction and Seat of Arbitration

6. The parties unfortunately were unable to resolve their disputes in relation to the arrears before the commencement of this arbitration and the applicant commenced the arbitration pursuant to the Act. The Act itself provides the jurisdiction and the seat of the arbitration is England & Wales.

7. I was appointed as the arbitrator on 30 September 2022.
8. The referral is for an arbitration on the papers only with no oral hearing.

Procedural and Interlocutory Matters

9. I issued direction to the parties on 3 October 2022 and I confirm the parties have complied with my directions.:
10. The Applicant's Formal Proposal is dated 21st September 2022 and was accompanied by the Claimant's supporting evidence and identified the Protected Rent to be £9,000.00.
11. The Respondent's Formal Proposal is dated 17 October 2022 and was accompanied by the Respondent's supporting evidence. And identified the Protected Rent as £8,221.83.
12. Paragraph 6 of the Respondent's Formal Proposal stated as follows: *"The Applicant's Formal Proposal for a write-off of the protected rent debt is acceptable to the Respondent in so far as the current protected rent debt in the amount of £8,221.83 is concerned, but excluding any uplift for the protected period arising from the April 2020 rent review which is yet to be determined."*
13. In subsequent emails the parties agreed the following terms of settlement and requested that I should make an Agreed Award:
 - That the Protected Rent of £8,221.83 plus VAT should be written off but any uplift arising for the protected period arising from the April 2022 rent review shall remain payable by the Applicant.; and
 - There shall be no award for interest; and
 - The arbitration fees shall be shared equally between the parties.
14. I note that the Act does not expressly envisage the making of an award by consent. If agreement had been reached before the commencement of the arbitration, I would have been obliged to make an award to dismiss the application. However, arbitrations under the Act are subject to the provisions of the Arbitration Act 1996 (See the introduction to schedule 1 of the Act). Section 51 of the Arbitration Act 1996 permits for an Agreed Award to be made where the parties settle a dispute during the course of an arbitration. Schedule 1 of the Act provides modifications to section 51 of the Arbitration Act and taking those modifications into account.
15. Sections 51(1) as modified by the Act reads as follows:

"If during the arbitral proceedings the parties settle the dispute, the following provisions will apply"
16. Section 51(2) as modified by the Act reads as follows:

"The tribunal shall terminate the substantive proceedings and shall record the settlement as an agreed award"
17. The remainder of section 51 of the Arbitration Act remain unaltered by schedule 1 of the Act.
18. The Act modifies section 52 of the Arbitration Act by deleting subsections 1 and 2 of the section. The remaining relevant subsection of section 52 is subsection 4 (and which is unaltered by the Act) which provides: "The Award shall provide reasons for the award unless it is an agreed award..."
19. The culmination of sections 51 and 52 of the Arbitration Act as modified by the Act is, the parties having reached a settlement, I must; (i) terminate the arbitral proceedings, (ii) make an agreed award in the terms of the settlement, (iii) without providing reasons.

20. Accordingly, I hereby terminate the arbitral proceedings herein and make the following agreed award

Agreed Award

21. This is my award in accordance with section 51 of the Arbitration Act 1996 (as modified by schedule 1 of the Act)

22. By agreement of the parties, I grant the following relief to the Applicant:

22.1 The Protected Rent Debt of £8,221.83 plus VAT shall be written off; and

22.2 The Applicant shall be relieved from paying interest on any part of the said Protected Rent Debt; and

22.3 The Respondent will within 21 days reimburse to the Applicant 50% of the arbitration costs;

22.4 For the avoidance of doubt, the relief herein granted shall not apply to any uplift in rent for the Protected Period arising from the April 2022 rent review, which at the date hereof is yet to be determined.

23. Pursuant to section 18(2) of the Act, 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 award contains no commercial information which ought to be redacted from the award pursuant to section 18(4). I will therefore publish the award in full on the CCODR website unless either party indicates to me by 4.00 pm on 23rd November 2022 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.



John Abbott FCI Arb
Seated in England & Wales
21st November 2022