
From: Dorothy Odonnell <Dorothy.Odonnell@lowsorkney.co.uk>
Sent: 01 May 2020 14:54
To: Gill Wigley
Subject: FW: Crafthub - (Our Ref: ETCN/CW/ROUSE02-13)

Dear Gill

As you are aware, I have sought the opinion of one of my litigation colleagues, who has now considered the recent exchanges and whose opinion can be summarised, as follows.

Tenancy

We do not think the Crafthub have rights as tenants that need concern you. The original Lease has been terminated. There is no need for the kind of formality required of Residential Leases. It is clear that Notice of Termination was given, firstly in the Lease itself which is only for three months to 31st March **and** secondly, in email exchanges, including an email from CH on 31.01.20 stating "We understand that from 1st April the Craft Hub will not have their current Lease renewed." REWDT has a perfectly good reason to terminate to allow refurbishment.

The CH reference to the Tenancy of Shops (Scotland) Act 1949 might have been relevant, but no longer applies since no Application has been made to the Court within 21 days of termination.

The only remaining issues on tenancy are (a) is there a continuing week to week tenancy of the existing premises, and (b) is there agreement to lease the alternative premises in the old shop. (a) would only apply if (b) does. There is no consensus for a lease of the old shop.

Constitutional Issues

There appears to be a valid requisition for an EGM of REWDT. This has not been held because of Coronavirus restrictions. It would only be reasonable in the circumstances that no further action in respect of the Pier Restaurant should be taken, pending that meeting actually being held. Presumably, physical works would not currently be permitted. We do not think a decision to lease premises to a particular tenant is a matter for an EGM. That should be a matter for the Directors, but you may wish to check your Articles of Association. What an EGM could do is to discuss and approve plans if the expenditure exceeds £20,000, as that apparently requires Community approval. An EGM could also presumably remove and replace Directors.

Politics

This is outwith our remit. We are not sure what REWDT's plans for the property actually are. If a solution is to be found, the first thing that needs to happen is that the Board of REWDT take a step back to decide:-

- (a) To what extent is this a clash of personalities;
- (b) is the Crafthub a "good thing" which is worthy of REWDT's support;
- (c) If it is, how should that be done?

If the old shop cannot be adapted to provide a home for the Craffhub in its present form for two years, then either they need to look elsewhere, or adapt what they do. The sticking point is the “need” to run a café. Perhaps they just have to accept that cannot happen. Also, if they need more storage, maybe they (or REWDT) could rent or purchase a container which would accommodate their belongings;
(d) If the Craffhub was considered to be not worth supporting, they can be left to sink or swim on their own.

Action

The current restrictions get in the way of actually doing anything at the present time. It would be difficult for the Craffhub even voluntarily to remove their belongings from the premises, and if they refused to do so, any Court action would be severely delayed, and any Decree impossible to enforce in the current circumstances. I am aware that certain Craffhub members are arranging for their stock and belongings to be removed, and we encourage you to facilitate these arrangements. We do not think REWDT need to fear Court action if it becomes necessary. We suspect REDWT will have deeper pockets than the Craffhub. The action would not be about terminating the tenancy, but rather about warrant for removal of the Craffhub and its members’ belongings.

Please note that we do not have a functioning Court department at the present time, and are unlikely to for a period of months. Any assistance we can offer is therefore limited.

We trust this assists, but no doubt you will wish to discuss further.

Regards.

Eddie

This email has been sent on the request of Edward T C Nicolson - all correspondence should be referred to eddie.nicolson@lowsorkney.co.uk or by post to the address below quoting the reference above.

Cynthia Watts
Secretary

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