

The 'Heap of Rubble' Triggered Commercial Tenancy Dispute

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In a case which gives guidance on the duties of commercial landlords to maintain the appearance of demised premises, a self-storage company which complained that its customers were being put off by the presence of an unsightly heap of rubble has failed in a bid for damages of more than £30,000.

In *Innerspaces Self Storage –v- Harding* (2014) the storage company argued that it had repeatedly asked its landlord to remove the rubble from a retained part of the industrial estate on which it operated and had ultimately been constrained to resort to litigation. It claimed, amongst other things, that a covenant within its lease imposed a general obligation on the landlord to maintain the appearance and amenity of the estate.

The company's claim was dismissed at the County Court, primarily on the basis that the rubble heap – which the landlord had intended to use in the foundations of a proposed building – was already present on the retained land when the company took an assignment of the lease on its premises from a previous tenant.

The Court of Appeal accepted that that was a mistaken basis on which to dismiss the claim but nevertheless dismissed the company's appeal. The Court found that the wording of the relevant covenant – by which the landlord agreed to 'administer and manage' the estate – was not broad enough to impose a generalised and wholly unspecific duty to maintain the estate's appearance.

Applying well-established principles of construction, the Court concluded, "In the absence of any definition of a sufficiently certain standard, or set of criteria, whether objective or subjective, by reference to which the appearance of the estate could be judged, it is impossible to construe the words 'administering and managing' as implying an obligation of the type for which the company contends."

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