



BRIEF ENCOUNTER

Do I have to pay rent to my landlords' landlord?

Q I own the lease of a maisonette and pay an annual ground rent of £500 to my landlords. They have a lease of the block and are supposed to pay a much bigger rent to the company that owns the freehold. The company has sent me a notice to say that my landlords owe it money and that in future I should pay my ground rent to the company instead. Can my landlords' landlord make me pay the ground rent in this way?

A The legal terminology with different tiers of leases can be a little complicated. Technically, your landlord has a "headlease", or a "superior" lease, of the building, while you have a "sublease", or an "underlease", of the maisonette. A tenant in your position is known as a sub-lessee or an underlessee. If there is a headlease, the position is that the sub-lessee can always leapfrog his own landlord and pay the ground

rent directly to the freeholder. In the 1849 case of *Jones v Morris*, the Court of Appeal explained that this was because the immediate landlord was assumed to have given permission to pay the ground rent directly to the freeholder on his behalf.

However, it is not only the sub-tenant who is allowed to leapfrog his immediate landlord in this way. The freeholder has a similar right to go directly to the sub-lessee if rent is due to him under the headlease. To do so, the freeholder must first serve a "by-pass" notice on the sub-lessee under section 6 of the Law of Distress Amendment Act 1908.

In your case, it sounds as if the freehold company has given you a by-pass notice to pay your ground rent. If you do not comply with the notice, the freeholder can sue you directly for your ground rent as if you owed the money to your own immediate landlords. You will therefore now have to pay your ground rent directly to your landlords' landlord.

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