

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964**  
**BUSINESS TENANCIES (NORTHERN IRELAND) ORDER 1996**

**BT/18/2003**

**BETWEEN**

**YUK CHEUN WONG & YUK LUN WONG (KNOWN AS  
ALBERT AND KATIE WONG) – APPLICANTS**

**AND**

**MRS HER JUING JAN – RESPONDENT**

**Premises: 15d Glen Road, Belfast**

**Part II**

**Lands Tribunal – Michael R Curry FRICS IRRV MCI.Arb Hon.FIAVI**

**Belfast – 11<sup>th</sup> May 2005**

1. Following the Part 1 Decision of 16<sup>th</sup> March 2003, the landlord and tenants having been unable to agree the duration of a new lease, that further issue was referred to the Tribunal.
2. In Part 1 the Tribunal found that although the relationship between Mrs Jan and Mr Wong appears to have begun well it rapidly deteriorated and that there may have been faults on both sides.
3. For the reasons given in its decision, the Tribunal found that although Mrs Jan is contemplating doing something, she does not currently have a settled intention, unlikely to be changed, reasonably soon to occupy this holding for a reasonable period for the purpose of a business to be carried on in it by her. But the Tribunal accepted, with reservations, that Mrs Jan has a reasonable prospect of overcoming the hurdles that stand in the way of doing that. Neither side reflected these conclusions in their proposals. The tenants sought a duration of the same order as the current lease (about 15 years from 31<sup>st</sup> July 2003), the landlord sought the shortest possible duration.

4. Article 17 of the Business tenancies (NI) Order 1996 provides —

“(1) Where the Lands Tribunal makes an order for the grant of a new tenancy, the new tenancy shall be—

(a) a tenancy for such period as may be agreed between the landlord and tenant; or

(b) in the absence of agreement, a tenancy for such period, not exceeding 15 years, as may be determined by the Lands Tribunal to be reasonable in all the circumstances,

and shall begin on the coming to an end of the current tenancy.”

5. The Tribunal was referred to Reynolds & Clarke *Renewal of Business Tenancies* (2<sup>nd</sup> Ed 2002) in which, at 8.3.3, the learned authors discuss the Tribunal's discretion as to length and in particular the circumstances that may be helpful in determining what is “reasonable in all the circumstances”.

6. The policy of the legislation is to protect a tenant but not to impede a landlord with a scheme for redevelopment or occupation for his own use. In this case it is a question of balancing the effect of duration on the parties. A longer duration would allow the tenants to take further advantage of the goodwill that they had acquired when they took over the premises and any goodwill that they have built up as a result of their trading at the location. But that would impede the Landlord in proceeding at an early time with proposals she has for the property.

7. In view of the relationship between the parties the Tribunal does not consider this to be a suitable case for a landlord's option to break at a future date. It is abundantly clear that notice would be served at the first available opportunity and it would be better to accept that and adopt a procedure with which the parties are now familiar.

8. The Tribunal has concluded that it should exercise its discretion by granting a lease for a term expiring at the end of July 2007.

9. That means that either party may serve a notice (a Notice to Determine or a Tenants Request for a New Tenancy) in about 1 year's time. That reflects the prospect of the landlord's proposals for the holding and allows time for her to make any arrangements

she considers appropriate in preparation for opposing the grant of new tenancy at that time. It also gives the tenants a degree of security of tenure and will give them a period of occupation of some 4 years from the end of the previous contractual term, an opportunity to take further advantage of their trade at the premises and a reasonable opportunity over the next year or two to make arrangements for the future.

**ORDERS ACCORDINGLY**

**30<sup>th</sup> June 2005**

**Michael R Curry FRICS IRRV MCI.Arb Hon.FIAVI  
LANDS TRIBUNAL FOR NORTHERN IRELAND**

**Appearances:**

**Mark McEwan BL instructed by M D Loughrey, solicitors appeared for the applicants.**

**Craig Dunford BL instructed by Mills Selig, solicitors appeared for the respondent.**