

# Market Rent Review

## FOR A RETAIL LEASE

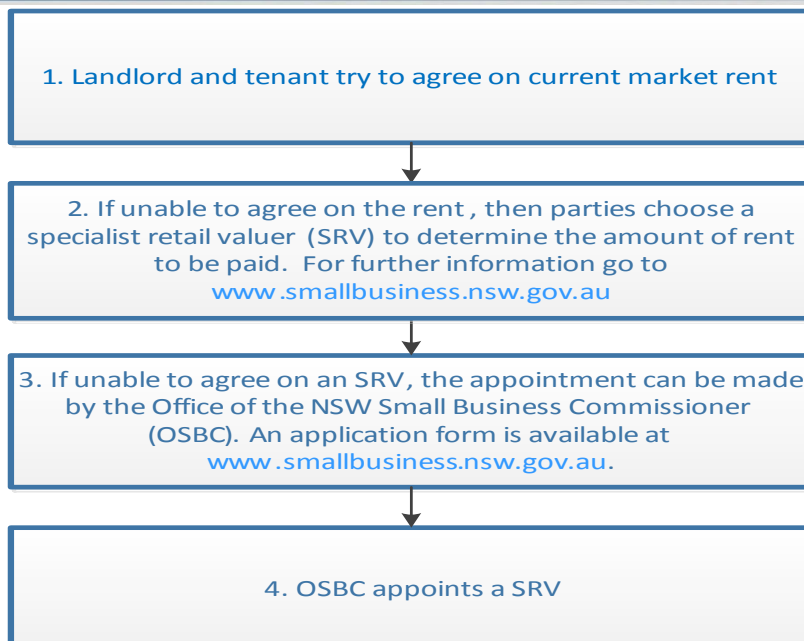
Often the parties will agree for rent to increase by either a fixed percentage, CPI increase or to be adjusted to the **current market rent**. The lease sets out when the rent may be adjusted, whether this is during an anniversary of the lease or at the renewal of the lease. To find out how and when the rent can be changed, it is important to carefully read through the terms of the lease for any clauses relating to rent review.

When the lease states that the rent is to be reviewed to current market rent, then the *Retail Lease Act 1994* (the Act) sets out the procedure for **how the rent can be determined**.

This document aims to provide an overview of the processes prescribed under the Act for determining market rent.

*Tip: If the rent is to be adjusted to the current market rent at the renewal of a lease, then prior to exercising their option the tenant can ask for an early determination of the rent. Please look at our fact sheet "End of the Lease and Options" for further information or call us on 1300 795 534.*

## HOW TO DETERMINE CURRENT MARKET RENT



*Tip: You should document any agreement reached on the current market rent or the appointment of an SRV.*

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## THE VALUATION PROCESS

The SRV will conduct a valuation to determine the current market rent

### Information the SRV will need

When determining current market rent the SRV will take into consideration the following matters:

- the provisions of the lease
- the rent that would reasonably be expected to be paid for the shop if it were unoccupied and offered for renting the same or substantially similar use as under the lease
- the gross rent less the landlord's outgoings payable by the tenant; and
- rent concessions and other incentives that are frequently or generally offered to prospective tenants of unoccupied retail shops.

The SRV must disregard the effect of the goodwill created by the tenant's business and their fixtures or fittings.

### How much will it cost?

Each party will be required to pay an equal share of the SRV's fees.

A specialist retail valuation is different to other types of valuations and will involve a considerable amount of work.

Generally, the costs of a valuation may be between **\$1,500 and \$5,000 per party**. However, either party can request a review of the valuation and this could mean that the costs are significantly more.

#### WHAT IF THE PARTIES DISAGREE WITH THE SRV'S VALUATION?

If one party believes the valuation is incorrect they may seek a **review** within **21 days** of receiving a copy of the original valuation.

The original valuation will then be reviewed by two SRVs who will either affirm or vary the determination received.

**As two SRV's will be appointed, seeking a review is a significant cost.**

To request a review of an SRV valuation, please visit- [www.smallbusiness.nsw.gov.au](http://www.smallbusiness.nsw.gov.au).

*Tip: To assist with the valuation, both parties may make written submissions to the SRV. Additionally, an SRV can request information from the landlord and this will need to be given to the SRV within 14 days.*

*Tip: Paying for an SRV can be avoided if the parties can come to an agreement on what the rent is to be before the SRV is appointed.*

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