

Croydon London Borough Council (Appellant) v Kalonga (Respondent)

Case ID: 2021/0044

Case summary

Issue

Can a landlord terminate a flexible tenancy agreement prior to the expiry of the fixed term if the tenancy agreement does not expressly provide for re-entry or forfeiture?

Facts

Miss Kalonga was the tenant of a property in Croydon under a flexible tenancy for a fixed term of five years from 25 May 2015 to 24 May 2020 (the "Tenancy Agreement"). Croydon London Borough Council was her landlord ("Croydon").

On 2 August 2017, Croydon served a notice on Miss Kalonga seeking to terminate the Tenancy Agreement due to rent arrears and anti-social behaviour. On 29 August 2017, Croydon issued a claim in the County Court at Central London seeking possession of the property. No claim was made on the ground of forfeiture.

Miss Kalonga served a Defence and Counterclaim, arguing that the Tenancy Agreement did not include a forfeiture clause, Croydon had failed to serve a valid notice under section 146 of the Law of Property Act 1925, and the claim was defective as a claim for possession of a flexible tenancy during the fixed term.

As a preliminary issue, the High Court held that the Tenancy Agreement did not include a forfeiture clause and without one, Croydon did not have any right to end the Tenancy Agreement before the fixed term of five years had expired. Croydon appealed and the Court of Appeal dismissed its appeal. Croydon now appeals to the Supreme Court.

Judgment appealed

[\[2021\] EWCA Civ 77](#)

Parties

Appellant(s)

Croydon London Borough Council

Respondent(s)

Chipo Kalonga

Appeal

Justices

Lord Briggs, Lady Arden, Lord Kitchin, Lord Leggatt, Lord Stephens

Hearing start date

12 January 2022

Hearing finish date

12 January 2022

Watch hearing

12 Jan 2022 [Morning session](#) [Afternoon session](#)