

Diagnostic X-Ray Services Pty Ltd v Jewell Food Stores Pty Ltd (2001) 4 VR 632

<http://lawcasesummaries.com/knowledge-base/diagnostic-x-ray-services-pty-ltd-v-jewell-food-stores-pty-ltd-2001-4-vr-632/>

Facts

1. Jewell owned a supermarket which was the anchor tenant under a 15 year lease. They drew in customers by offering fuel incentives to customers.
2. Jewell starts selling off its petrol stations and the landlord attempts to enforce specific performance

Held

1. Generally, courts are reluctant to grant specific performance in such circumstances because 1) it may cause people to operate at the bare minimum but not well, 2) it may force people to operate businesses at a loss, 3) damages are seen as an adequate remedy for the breach 4) they do not want to supervise
2. However, in this circumstance, these problems were not issues because the petrol station was profitable, their presence was an integral part of the lease etc, running a petrol station was simple so did not require supervision

Law case summary from www.lawcasesummaries.com