

How to Deal With the Tenants From Hell

A Bad Tenant can be an Absolute Nightmare! But, there really are a few simple steps that you can take to deal with a problem tenant and minimise your risk.

If You Encounter a Problem Tenant the Eviction Process is Usually in Three Stages:

1. Serve a Section 8 and/or Section 21 Notice
2. Court Proceedings
3. Bailiffs

NOTE: You only have to go to court if your tenant doesn't leave after stage 1 and you only need to get the bailiffs in if the tenant doesn't move after stage 2

Section 21 Notice

A Section 21 Notice is probably the most secure way to get your tenant out and can also be used very effectively with a Section 8 Notice

It gives the tenant notice to leave the Property and the amount of notice you must give depends when the notice is served on your tenant.

Provided the correct procedure is followed success is guaranteed

The Section 21 Notice may be served before, during or after the fixed term of the tenancy.

When Serving the Section 21 Notice During the Initial Fixed Term of the Tenancy

Two months notice must be given and, on the expiry of that, you are entitled to possession.

The only proviso to this is that you cannot ever be entitled to possession is before the end of this initial fixed term.

For example, if you have granted a six month Tenancy to a Tenant and serve the Section 21 notice on day two of the Tenancy then the Section 21 Notice cannot expire until the end of the 6 month initial fixed term.

If the Section 21 is Served After the Initial Fixed Term As Finished

If the Tenancy is beyond the initial fixed term then two months notice must be given but the law states that the notice must also expire on the 'last day of a period of the Tenancy'. The last day of a period of the Tenancy would usually be the day before the rent is due.

Last Day of a Period of a Tenancy - Where it is Easy to Calculate

Let's say that we have a 6 month AST which was entered into on the 5th June 2010.

The rent is payable on the 5th of each month. The rent period would be:

5th of one month - to the 4th of the following month

The last day of a rent period would therefore be the 4th.

Where It is Not so Easy to Calculate!

However, what if we had a 6 month AST entered into on the 5th June 2010.

But what if the rent is payable, or actually paid, on the 12th of each month? Is the last day of a period of the tenancy the 4th or is it the 11th (the day before the rent is paid?)

HINT: Because of this, 'Street-Smart' Landlords complete Section 21 Notices with terminology which covers BOTH possibilities.

If you need any assistance when dealing with a problem tenant call us on 0844 8248913

“So, What Happens if Your Tenant Simply REFUSES to Leave After Your „Section 21 Notice Has Expired?”

You Have Two Options. Proceeding under what is known as the:

1. Accelerated Procedure Route; or the
2. Standard Route.

Accelerated Possession Route

If the tenant hasn't left in accordance with the notice you can request that the court makes an order for possession without a court hearing being necessary.

The court will then write to the tenant to ask the tenant if the tenant wishes to make a defence to your claim for possession.

If the tenant does not make a defence within 14 days, or a defence that the court thinks is valid, then the court will grant a possession order to you.

Remember that if you have done the right paperwork at the right time there is no defence to a Section 21 Notice.

If you use this route then it can get your tenant out quicker because the court considers claims under the Accelerated Procedure faster than others.

The court will not make any decision on any rent arrears - the judge will only consider if you can have possession.

Standard Procedure

If you want to claim rent arrears then a court hearing is necessary. It usually takes between 4 - 6 weeks to get a Court hearing to request a possession order.

This route is not as quick as the Accelerated Procedure but you can claim rent arrears.

The above is a general guide only to give you an idea of the options open to a Landlord.

IMPORTANT: You should always take advice before taking any action.

Section 8 Notice

You can also use a Section 8 Notice to get back possession of your property from a problem tenant. It can be used separately or together with a Section 21 Notice.

A Section 8 Notice can be served at any time as soon as the Tenant defaults in any of the ways set out below.

A Section 8 Notice Gives the Tenant 14 Days to Vacate the Property So it is Quicker Than a Section 21 Notice.

This allows you to get possession of the Property during the initial fixed term of a tenancy, unlike a Section 21 Notice.

However, when preparing your Section 8 Notice you should allow a few extra days to allow for the Notice to reach the tenant. It is also best to make sure you have proof of postage.

So, if you served a Section 8 Notice on a tenant on the first of the month it is probably best to put the expiry date as being the 16th. This means that the tenant has until the 16th to make good the problems they have caused or leave the property.

A Section 8 Notice Can be Used in a Variety of Situations Which Cover Most Problems Caused by Tenants:

These Include:

Where there are rent arrears of either 8 weeks or more (where rent is paid weekly) or 2 months or more (where rent is paid monthly); or

The Tenant damages your Property; or...

The Tenant frequently pays rent late or has persistent rent arrears; or

The Tenant breaches the terms of the Tenancy.

When you complete the Section 8 Notice, for example on some of the grounds above, then you must copy the exacting wording of the legislation and include it on your Section 8 Notice.

So What Happens if Your Tenant STILL Doesn't Leave? What Are Your Options Then?

If your tenant still doesn't leave then you can apply for a Court hearing to request a Court Order that the Tenant must vacate your Property.

If you are awarded a Court order and the tenant still doesn't leave then you can request that the bailiffs attend at the Property to remove the tenant.

If you need advice and assistance please call JD LAW on 0844 824 8913

Please note that this guide is a general guide to the process of evicting a tenant and is not intended, and should not be taken, as legal advice.