

## Going to court

This information is for private landlords.

You need to get a court order from a county court to evict a tenant who does not want to leave. You can also recover rent arrears or compensation separately through small claims court.

## Getting a court order to evict a tenant

You cannot force a tenant to leave a property even if:

- the notice period has ended
- they have breached the contract
- they owe you rent

You'll need to apply to county court for a possession order to evict the tenant. You'll need a solicitor to do this for you.

Your solicitor can give the tenant a final chance to move out. If they don't, your solicitor can serve a notice called a 'civil bill'.

This bill will explain:

- that you are taking your tenant to court
- how much rent or other damages, if any, you are claiming
- if you plan to ask the court to make the tenant pay your court fees

The tenant has 21 days to respond to the civil bill.

They can defend the case if:

- you did not follow the right process to evict them or

- they can prove that they did not breach their contract or
- they breached the contract but they have remedied the breach

If you have followed the right process, the judge must give you a possession order.

## **Evicting a tenant after the possession order**

The court will send a copy of the order to your tenant. This includes a final date for leaving the property.

If your tenant does not leave by this date, you'll need to apply to the [Enforcement of Judgments Office](#). Your solicitor can help with this.

Police will not get involved in disputes between a landlord and a tenant, unless a crime has taken place. Only the Enforcement of Judgments Office can remove someone who stays in a property after a court evicts them.

## **Applying to small claims court**

You can file a claim at small claims court if your tenants owe rent or have caused damage to your property.

The maximum amount you can claim is £5,000. You cannot use small claims court if your application is for more than this. You can make a claim for a higher amount through county court but you will need a solicitor.

### **When to apply to small claims court**

You can apply while your tenant is still living in the property or after they have moved out.

You'll need to show the court that you have already tried to resolve the issue with your tenant.

If you're applying for a possession order, you probably won't need to file a separate application through small claims court. Usually, you can include a claim for damages as part of the civil bill to recover possession of the property.

### **Filling in the claim form**

You need to complete a claim form to start the application process. You can:

- get a form from your local court or
- [download a form](#) or
- [apply online](#)

If your tenants have already moved out you must have an address for them in order to complete the form. If you don't have an address for your tenants, you can include the address of their guarantor.

You should include documents or evidence with your completed form.

You can include:

- invoices or quotes for repairs
- receipts for replacement items
- a copy of your tenancy agreement
- copies of bank statements or rent accounts

The fee you'll pay depends on the amount of your claim. The Courts Service website has an up-to-date [list of fees for small claims court applications](#).

## **Defending a claim from a tenant**

Your tenants may take action against you if they feel you have unfairly charged them or withheld their deposit.

Most deposit disputes are dealt with by deposit protection schemes through their dispute resolution mechanism.

But your tenant has the right to take small claims court action against you if:

- they don't want to use the scheme's dispute resolution mechanism, or
- the deposit was not protected in a scheme

### **If you accept that you owe money:**

You should send this to your tenants immediately. You should also inform the court and provide proof of payment.

### **If you want to challenge the claim:**

You'll have to issue a counter claim. The tenant's claim form should include paperwork allowing you to do this. Once the court gets your response, it will write to you with a hearing date.

### **If you do not reply by a certain date:**

Your tenants can ask the court to decide without hearing your evidence.

## **Getting ready for court**

Small claims court hearings are usually held in public and are quite informal. You do not need a solicitor. If you choose to hire a solicitor you will need to pay their fee, even if your case is successful.

At the end of the hearing, the judge will deliver the judgment and the reasons for reaching this decision. If you win, you will normally be awarded the court fees.

There is a limited right of appeal for small claims. You must be able to show that:

- the court made a mistake interpreting the law or
- there was a serious irregularity in the proceedings

If this is the case, you must file a notice of appeal within 21 days. You should speak to a solicitor if you're thinking of appealing a small claim court judgment.

## **Enforcing the judgment**

Once an order has been made in your favour, your tenant is expected to pay you. If this does not happen you may need to apply to the [Enforcement of Judgments Office](#).

## **More advice**

- [How to end a tenancy](#)
- [Returning tenancy deposits](#)

## **Footnotes**

