Housing Rights

https://www.housingrights.org.uk/landlords/ending-tenancy/going-court

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Going to court

This information is for private landlords of properties in Northern Ireland.

If you are a tenant, you can find advice here.

If you are a landlord or letting agent in Northern Ireland seeking advice, you can:

- send a message to Landlord Advice, or
- call 028 90 245 640 (Option 1)

Our Landlord Advice service can give free, confidential advice to private landlords and estate agents in Northern Ireland.

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 the 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 'civil bill' notice.

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 your tenant a copy of the possession order. It will give the final date for them to leave the property.

If your tenant does not leave by this date, you'll need to apply to the Enforcement of Judgments Office (EJO). Your solicitor can help with this. You should speak to your solicitor about the cost of EJO enforcement. They can also give you advice on the likelihood of recovering the fees from your tenant.

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

Applying to small claims court

If the tenancy has ended and your tenant has left:

- owing rent or
- having caused damage to your property

the tenancy deposit scheme may be able to help you recoup your losses.

Since 1 April 2013, all deposits must be **protected in a deposit protection scheme**. At the end of the tenancy, the scheme can decide how much of the deposit to withhold from the tenant to cover rent owed or damage caused. One of the purposes of deposit protection is to provide an alternative to legal action.

You can also take an action in the small claims court for any losses caused by the tenant if:

- the costs are more than the deposit amount or
- a deposit was not paid

If the tenants are still living in your property, our mediation service may help you reach an agreement without going to court.

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

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. If they have moved out, you will need their new address. You cannot serve them with a court action without an address.

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

You usually won't need to take action in small claims court if you're applying for a possession order. 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 their new address 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.

Defending a claim from a tenant

Your tenant can also take an action against you if, for example, they feel you:

- have unfairly charged them or
- wrongly withheld some of their deposit.

Most deposit disputes are dealt with by deposit protection schemes. They will have a dispute resolution mechanism to address such issues.

But your tenant has the right to take a 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

Your tenant is expected to pay you once an order has been made in your favour. If this does not happen, you may need to apply to the EJO.

More advice

- How to end a tenancy
- Returning tenancy deposits