

DEFAULTING TENANTS : A SOLUTION

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WHAT DO WE MEAN BY DEFAULTING TENANTS?

- Non payment of rent
- Breach of tenant obligations

HOW DO WE AVOID THEM:

- Take up detailed references
- Tenant application form
- Credit checks
- Bank account details
- Employment reference
- Photographic identification
- Guarantors

WHAT HAPPENES WHEN IT GOES WRONG

- Obtain professional advise quickly
- Serve relevant housing act notices without delay
- Issue court proceedings promptly

THE EVICTION PROCEDURE

There are two ways of bringing an Assured Shorthand Tenancy to an end

- By issuing S21 notice and obtaining a possession order using the accelerated possession procedure
- By issuing S8 notice and obtaining a court order under S8 procedure proving one of the grounds in the housing act.

SECTION 21 ACCELERATED PROCEDURE (1)

- Can be used against all assured shorthold tenants
- Only upon expiry of the fixed term or during a periodic tenancy
- Must be commenced with valid notice in prescribed form
- Notice valid for 2 months
- After two months can commence accelerated court action
- Cannot claim rent arrears at the same time

SECTION 21 ACCELERATED PROCEDURE (2)

- Will obtain a court order for possession and costs
- Do not have to prove a ground for possession other than that the tenancy has come to an end
- Cannot use this method to claim for possession on the grounds of rent arrears
- Does not have to be a hearing of the application if tenant does not defend and if notice valid.
- Courts normally grant possession within 14 days

SECTION 8

HOUSING ACT 1988

- Can be used against all assured shorthold tenancies
- Must establish a ground for possession (mandatory or discretionary as in schedule 2 Housing Act 1988)
- Notice under S8 must precede any lawful court action
- Landlord can seek an order for possession , rent arrears and costs
- There must be a hearing of the application even if tenant does not reply to the claim
- Court normally grants possession within 14 days

MANDATORY GROUNDS FOR POSSESSION

- Owner occupier
- Repossession by the mortgagee
- Out of season letting
- Redevelopment or building by landlord
- Rent arrears

DISCRETIONARY GROUNDS FOR POSSESSION

- Suitable alternative accommodation
- Rent lawfully due
- Persistent delay
- Breach of obligation
- Waste, neglect
- Nuisance and annoyance
- Deterioration of furniture
- Employee of landlord

TIMESCALE FOR EVICTIONS PROCEDURE

- S8 take about 5 months
- S21 takes about 3 months if notice has expired already if not takes about 5 months as well.

COSTS

- Court fee is £150
- Plus additions fees like professional fees