



Tenancy Relations Fact Sheet 3

Ending Assured Shorthold Tenancies (section 21)

Assured Shorthold Tenancies will either be subject to a fixed term, or they will be periodic. If there is no fixed term or the term has expired, then the tenancy is automatically 'periodic'. This means that the tenancy will automatically renew itself in common law. The tenancy will renew on the day rent is due.

Tenant process to end a tenancy

When a tenancy has a contracted fixed term, the tenant cannot give notice to end the tenancy early. The tenant is bound by the term of the tenancy agreement. Some tenancies may be ended early if the agreement contains a break clause.

Clauses within a tenancy agreement which require the tenant to give notice to leave on the last day of the fixed term are not enforceable. This is because the last day of the fixed term tenancy has already been agreed in contract and therefore no notice is required. This is in accordance with the Competitions and Markets Authority guidance. It is however good practice for a tenant to give reasonable notice of their intention to leave at the end of the term.

When the fixed term ends and the tenant remains in the property the tenancy automatically becomes a "statutory periodic tenancy". To end a statutory periodic tenancy, the tenant must give notice equal to how often rent is due. This cannot be less than 28 days and it must end on the last day of the rental period. It is advisable to provide notice in writing.

Example

Rent is paid monthly on the 5th of each month. The rental period would be 5th of the month to 4th of the following month e.g. 5th May – 4th June.

If the tenant wishes to leave the property on the 4th June, they must provide notice before 5th May.

Landlords' process to end a tenancy

An Assured Shorthold Tenancy can only be ended by the county court. The landlord may apply for a county court order however they must have complied with all appropriate regulations.

Notice

Under section 21 of the Housing Act 1988, a landlord is entitled to a possession order in the County Court where any agreed fixed term has ended, or where there was never an agreed fixed term. The tenant must however have been provided with the correct notice.

A section 21 notice must be completed on the prescribed form (Form 6A) and it must provide at least two months' notice. Any date can be given for this notice and it does not have to expire with the rent due date. The tenant does not have to acknowledge that they have received this notice however the landlord must evidence this has been served such as recorded delivery.

A landlord cannot be used a section 21 notice in the following situations:

- It is less than 4 months since the tenancy started (unless there is a contract clause in the tenancy which allows this);
- The property is a house of multiple occupation (HMO) and does not have a HMO license from the council;
- The tenancy deposit has not been placed in a deposit protection scheme;
- The council has served an improvement notice on the property in the last six months;
- The council has served a notice in the last six months that says emergency works will be completed on the property;
- The landlord has not re-paid any unlawful fees or deposits charged to the tenant;
- The tenant has not been provided with the property Energy Performance Certificate;
- The tenant has not been provided with the current gas safety certificate for the property (from before the tenant moved into the property); and
- The tenant has not received a copy of the governments 'how to rent' guide.

Possession Order

On the expiry of the notice, the tenancy continues with all obligations applying to both the landlord and the tenant. The landlord must then apply to the County Court for a possession order.

The court order can be obtained using the "Accelerated Possession Procedure". Bristol County Court can be contacted for the court form "n5b" at:

2 Redcliff Street
Bristol
BS1 6GR
Phone: 0117 3664800

Alternatively, the court form can be generated online at:-

<https://www.gov.uk/accelerated-possession-eviction>

Once a possession order has been issued to the tenant and it has expired, if the tenant has not given up occupation, the landlord then needs to apply to the Court for a bailiff's warrant (court form n325).

Please note:

It is important that this procedure is followed, to avoid a breach of the criminal law. See Fact Sheet no 6 on "Illegal Eviction & Harassment".

Disclaimer: This information is not intended as an authoritative interpretation of the law, only the Courts can do that. Neither does this information cover every case. For further guidance, it may be advisable to seek legal guidance from a solicitor.

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