

Notes for defendant - rented residential premises claim

The claimant has asked the court to make an order that you give up possession of the premises mentioned in the claim form. You should note that no-one can evict you from the premises unless the court says that they can; the court will not make a decision before the hearing date. What you do may affect the court's decision. You should therefore take action immediately. These notes explain in more detail what you can do.

You should:

- get help and advice immediately from a solicitor or advice agency (see 'Getting help' below);
- fill in the attached defence form and return it to the court within 14 days of receiving the claim form;
- attend the hearing, even if you have agreed about repayment of any arrears with your landlord.

What will happen at the hearing?

A judge will decide whether or not to make an order for possession. In making this decision, the judge will take account of the information provided by the claimant. The judge will also take account of any information you provide, such as details of your personal and financial circumstances, any proposal you have made to pay off any arrears, and any dispute you have about the amount owing. But the judge can only take the

information into account if you provide it. Fill in these details in the defence form and attend the hearing. It is in your best interests to do both.

What kind of orders can the judge make?

Depending on the type of your tenancy the judge may:

- decide not to make an order for possession;
- make an order for possession but suspend it. This means that you will not have to give up possession so long as you can pay off any arrears in a reasonable time (the judge will decide how long) and pay the rent as well;
- make a possession order for some future date to allow you time to move out or find somewhere else to live; or
- make an order that you give up possession a very short time ahead.

If the claimant is claiming **demotion of tenancy** or a **suspension order** (see paragraph 11 of the particulars of claim), the judge can make a demotion or suspension order **instead** of a possession order. A demotion order means that your current tenancy will be replaced with a demoted tenancy. During the period of demotion (usually 12 months) you will lose a number of rights you currently enjoy under the tenancy. If the court makes a demotion order, this will not mean that you have

to leave your home but it will be much easier to evict you in the future.

If the court makes a suspension order it would mean that you could not exercise your right to buy the premises during the period of suspension.

Getting help

You should get help and advice immediately from a solicitor or an advice agency. This is particularly important whether or not you disagree with the claim since these notes cannot cover every different type of tenancy. You may qualify for assistance from the Community Legal Service Fund (CLSF) to meet some or all of your legal costs. Ask about the CLSF at any county court office or any information or help point which displays this logo. Court staff can only help you complete the defence form and tell you about court procedures.

Community
Legal Service



They cannot give legal advice.

Replying to the claim

Although you should normally fill in the defence form and return it to the court within 14 days, the court will accept your defence at any time before, or even at, the hearing. You should note, however, that if you do return the form after the 14-day period, the court may order you to pay any costs caused by the delay.

Paying any arrears

The court cannot accept payments. If you want to pay all or part of any arrears, send them to the claimant at the address for payment shown on

the claim form, quoting the claimant's reference number, if one is given.

Make sure you have a receipt for all payments made. Proof may be required if there is any disagreement. Make sure you include on your defence form details of any payments you have made since the claim was issued, saying how much was paid, to whom and when.

Enforcement of a possession order

Where the court makes a possession order, the claimant can ask a bailiff or enforcement officer to evict you if:

- you do not give up possession on the date given in the order for possession; or
- you do not make payments in accordance with the suspended order for possession.

If your circumstances change after a possession order is made, you may apply to the court for the order to be varied. Use application form N244 which is available from any court office. You may have to pay a fee to make the application.

Registration of judgments

If a county court makes a money judgment (e.g. for rent arrears and costs) your name and address will be entered in the Register of Judgments, Orders and Fines if the claimant has to take steps to enforce the judgment. This may make it difficult for you to obtain credit.