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## **Article**

### **Title: When tenants don't pay up .....**

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'However carefully you have chosen the property and location, found the 'ideal' tenant and believed you have a performing investment', says Hayley Eachus, solicitor at Phillips specialising in landlord and tenant issues, 'it could all dissolve into financial tears if the rent suddenly stops'. So what can you do that stays within the law?

To start with, what you can't do is to evict tenants by any means other than court action, as this could result in the tenant taking action against you. On the other hand, it's also probably best not to rely on your tenant's promises to pay. If the promises are not kept, your financial situation will only get worse.

What you can do is seek legal advice on the grounds for possession then you can serve a possession notice by hand, using a friend (who won't mind confirming in court that he/she served it) or a 'process server'. If no rent is forthcoming by the expiry of the notice period, you can ask your solicitor to commence legal proceedings. Bear in mind that the delays from the court for a 'hearing' can stretch from four to six weeks, the court fee will be £150 and the hearing must take place in the County Court area in which the property is located.

There is an accelerated possession procedure which you can use if you have an Assured Shorthold Tenancy Agreement (ASTA) in place, or a written form of tenancy agreement. You and your solicitor must ensure that all the relevant documents are in place and that there are absolutely no errors in the application. If the judge finds any errors in the wording of the notice or application then he/she is likely to throw it out and the whole process must start all over again, right from the beginning. An application made through your solicitor will enable you to receive an order for possession and an order for the tenant to pay fixed costs and some of the rent arrears.

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### **So what can go wrong?**

- The tenant may turn up at court and offer to pay some of the rent arrears – it's in the judge's discretion but he may be persuaded to allow the tenant to stay. Then if the tenant gets into arrears again, the process will have to start over.
- You'd be wrong to think that you can wait for the tenancy agreement to come to an end and then demand your tenant leaves, because you can't – you've still got to give notice for mandatory eviction.
- If you wish to go down the Do-it-Yourself route, complete the order and go to court yourself (paying £150 court fee), be aware that if you get something wrong, it's likely that the judge will throw out the application and you'll have to start all over again, whilst still not receiving any rent!

### **How can you avoid the problem of non-paying tenants?**

You could hand over the rental management to a letting agency (members of the Association of Residential Letting Agents or ARLA abide by a code of conduct and have a complaints procedure). If you plan to manage the property yourself, then carefully vet your potential tenants and run a credit reference check, get full identity evidence and ask to see a reference from the existing landlord. 'Finally' advises Hayley, 'ask the right questions at the viewing; make sure the tenant can afford it; make the payment details perfectly clear; make sure you detail in writing what action you will take if the tenant's payments fall in arrears and know your rights when it comes to bringing the tenancy to an end – it is not as simple as expecting the tenant to vacate on the last day of the tenancy'.

ENDS

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