



Housing solicitor Colin Henderson has some First Aid advice if you are facing eviction:

DON'T PANIC & DON'T LEAVE

In general the **ONLY** person with the lawful authority to evict anyone from their home is a properly instructed court bailiff after a judge has ordered possession. Up until that point I can often stop an eviction through the courts, but after that there is rarely any legal remedy. The local authority **DO NOT** have to rehouse you if you become homeless unless you qualify under a number of tests, so please **NEVER** leave or give up a tenancy before you get advice.

Often tenants get into arrears because it can be so complicated to claim Housing Benefits. The CAB has years of experience in sorting this out for clients so get help today. If you have kept back rent because the landlord won't do repairs, then the law may be on your side. If necessary, I can take legal action for you to get the repairs done.

STAGE ONE: Notices to quit or seeking possession

For tenants of social landlords (council or housing association) this is just a first step. The notice is valid for 12 months and is served as a warning to make you arrange payments of rent arrears or sort out any other tenancy breaches.

If you have a private landlord then, unless they also reside with you, you do not have to move out after the notice expires, although you may be liable for legal costs if you stay. The validity of the notice depends on when the tenancy started. If pre-January 1989 you are fully protected, if after that but pre-February 1997, you are likely to be an assured tenant, with considerable protection, if after February 1997, you are likely to have a shorthold. I was recently told by a District Judge that 75% of standard 2 month shorthold notices he sees are invalid. For all shortholds the notice must meet detailed requirements including expiry on the correct date except if it is given within the initial fixed period. You should get expert advice on any notice you receive.

If your lender threatens possession action you should get urgent debt advice from ourselves, National Debtline 0808 808 4000 or CCCS 0800 138 1111

STAGE TWO: Court Summonses

These do NOT mean you are going to be thrown on the street on the day of the court hearing, or the day or even the week after, but you must get help urgently. In most social landlord cases, we can save the tenancy under a postponed possession order, on basis that you can pay the rent plus a bit ore each week to clear the arrears.

In mortgage cases a similar suspended possession order can be agreed provided you can pay the monthly sum due under the mortgage, and clear the arrears within a reasonable time. Some times the court will give time for you to sell or remortgage.

In private landlord cases you should seek urgent advice and then complete and return the court papers.

STAGE THREE: Bailiff's notice of eviction

For many tenants it's still not too late provided we can get to court before the time of the eviction. Ring me so I can see you urgently and help you apply to court for the warrant to be suspended. This is usually granted, so long as you can explain why any previous order was broken and you are prepared to make payments as above.

For private landlord tenants you may need urgent advice on a homeless application to the local authority at this stage.

What if the landlord has changed the locks?

A landlord is not allowed to physically evict a tenant from their home. It is a criminal offence to try to do so. If this has happened to you, or even

if the landlord just threatens to do this, contact me immediately as I can start proceedings for an injunction ordering the landlord to allow you back into the premises and claiming large damages.

Even if you do not want to live there again you are entitled to compensation and will need to get your belongings – the landlord has no right to keep them to pay off arrears. You may also need urgent advice on how to ask the local authority to help you if you become homeless.

Further information

For more detailed advice on housing problems contact me or my secretary Gail Harrison on 01539 721216. If you leave a message I will usually get back to you within 24 hours.

For online advice go to the SHELTER website:
<http://england.shelter.org.uk/advice/index.cfm>