

# Notes for defendant - forfeiture of the lease (residential premises)

The claimant has asked the court to make an order that you lose (forfeit) the lease 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. What you do may affect the court's decision. You should therefore take action immediately. These notes apply when the only ground relied on is rent arrears. They explain in more detail what you can do.

## You should:

- If you can, pay all the unpaid rent and costs, including any rent which has become due since the claim was issued. **(See 'Paying the arrears' below).**
- If you cannot pay, get help and advice immediately from a solicitor or advice agency **(see 'Getting help' below)** and;
- Fill in the attached defence form and return it to the court within 14 days of receiving the claim form, and;
- Attend the hearing.

## Paying the arrears:

**If you pay all the arrears and costs and any rent due before the hearing, the claim will cease, the lease will continue unaffected and the hearing will be cancelled.** Remember that you must include in your payments any rent which has become due since the claim was issued. The daily rate of rent is given at paragraph 2(c) of the particulars of claim. You should add this amount for each day that has passed since the claim was issued to the arrears and costs already due. The date of issue is on the front of the claim form.

You should make your payment at least **5 clear days** before the hearing. Make sure you get dated receipts. If you pay by cheque, the hearing will **not** be cancelled unless it has cleared.

## What will happen at the hearing?

The judge will take into account information provided by the claimant. The judge will also take into account 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 the defence form and attend the hearing. It is in your best interests to do both.

## What kind of orders can the judge make?

### The judge can:

- refuse to make an order for forfeiture; or
- adjourn the claim to another day;
- suspend forfeiture of the lease on the condition that you pay the arrears and costs together with the current rent at a time and rate which the court will decide;
- make an order that you leave the premises.

## 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.

You may qualify for assistance from the Community Legal Service Fund (CLSF) to meet some or all of your legal costs.

Ask about 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. **They cannot give legal advice.**

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## Enforcement of a forfeiture order

Where the court makes a forfeiture order, the claimant can ask a bailiff or Enforcement Officer to evict you if:

- you do not pay all the rent and costs by the given date in the order;
- you do not give up possession of the premises by the date given in the order;
- you do not make payments in accordance with the suspended order.

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.

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