

# Residential Possession – Rent Arrears

## Rent Arrears Possession – the fixed costs

Initial consideration of papers	£110
Drafting Section 8 Notice if required	£75
Drafting the claim and particulars (of claim) and compiling documentation for submission to the court	£200
Drafting a witness statement, filing with the court and serving on the tenant	£100
Briefing counsel for the hearing	£100
Issuing County Court Warrant for possession or instructions to the High Court Enforcement Office	£60
Typical expenses:	
- Court fee on the issue of proceedings	£355
- Office copies of the Land Register	£3
- Counsel's fees for the hearing	£250 to £300
- County Court fee on the issue of the Warrant OR	£110
- High Court Enforcement Office fee to transfer case to High Court	£60
- AND Bailiff service on eviction	£600
- Service of Section 8 Notice	£75

(Please note that all prices are estimated and are exclusive of VAT. Court fees do not attract VAT)

## Rent Arrears Possession - the basics

When recovering possession of residential property because of rent arrears:

- there must be no dispute or counterclaim by the tenants which may be set off against the rent
- there must be at least 8 weeks or 2 months rent arrears depending on whether the rent is paid weekly or monthly in order to qualify for the mandatory ground for the court to order possession. (The court may order a possession if the rent arrears are lower; but this is discretionary)
- although the landlord does not need to comply with the Tenancy Deposit provisions before serving a notice requiring possession, failure to comply will entitle the tenant to make a counterclaim for statutory compensation
- there should ideally be a written Tenancy Agreement.

It is now common to include a claim for costs if the Tenancy Agreement specifies, and a claim for the Tenancy Deposit to be paid to the landlord. The court will serve proceedings on the tenant and will fix a date for the hearing, no earlier than 4 weeks after issuing the claim. The landlord (or the landlord's agent) will need to give a witness statement and should give evidence of the rent arrears at the hearing. If the court finds the evidence proved and there is no genuine defence or counterclaim, the court will make a possession order; normally effective after 14 days.

**For more information visit [debenhamsottaway.co.uk/rentarrears](http://debenhamsottaway.co.uk/rentarrears) or email Simon Tucker at [st@debenhamsottaway.co.uk](mailto:st@debenhamsottaway.co.uk)**

Please note, this summary deals with rent arrears only and not any other situation in which a landlord seeks to recover possession of residential property.

## Rent Arrears Possession - the procedure

To gain possession due to rent arrears, these requirements and processes should be followed.

The landlord must serve notice under Section 8 of the Housing Act 1988 on the tenant.

If the rent arrears remain unpaid after the period specified in the notice (a minimum of 2 weeks), a claim for possession (and rent arrears) is submitted to the court. This is a standard procedure and not the accelerated procedure which follows service of a Section 21 Notice.

The claim form should be accompanied by

- a copy of the tenancy agreement
- a schedule of the rent payable and paid
- a copy of the Section 8 Notice
- the landlords entitlement to possession, for example an extract from the land register.

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