

Illegal eviction

In this factsheet we look at what you can do if you are a tenant who has been illegally evicted.

A landlord can only lawfully evict a tenant by following the correct procedure. Illegal eviction is a criminal offence. In most cases, the landlord will have to give you written notice and then get a court order.

Proper notice

The fact that your landlord owns your home does not give her/him a right to evict you in any way s/he sees fit. Depending on the type of agreement you have, the reason for the eviction, and the type of notice you are entitled to, you should normally get either:

- two weeks' or two months' notice of seeking possession, or
- a minimum of four weeks' notice to quit.

After your notice period has finished, your landlord has to apply to the court for a possession order. If you don't leave on the day the court says you should, your landlord must return to the court and get a bailiff's warrant. If at any point in this process your landlord forces you to leave before the bailiffs arrive then you have been illegally evicted.

If you live in the same accommodation as your landlord s/he will not normally need a court order to evict you and only needs to give you reasonable notice. There are a small number of other situations where the landlord will not need to get a court order. You may wish to get advice if you want to be clear about your rights.

Unlawful acts

There are certain actions that nearly always count as illegal eviction. Your landlord will probably be committing an offence if s/he:

- changes the locks while you are out
- threatens you if you do not leave
- physically throws you out
- stops you from getting into certain parts of your home.

Getting back in yourself

If you have been illegally evicted, you may have the right to re-enter your home, even if your landlord has changed the locks. This is a complicated area of law, and it is vital that you are certain that you have this right before taking any action. In some

circumstances you could be committing a criminal offence yourself.

Going to the council or the police

Every council should have someone who can advise you. Some councils employ a 'tenancy relations officer' (TRO), whose job it is to help tenants experiencing harassment or illegal eviction. The council can contact your landlord to mediate on your behalf. They can ensure that your landlord is aware of your rights, that action they are taking may be unlawful, and they may successfully persuade the landlord to let you back into your home (an advice service can also do this). In some cases the council will prosecute the landlord.

Although illegal eviction is a criminal offence, it can be difficult to get the police to help you. There is often some confusion about the law and what responsibilities the police have. However, they will usually agree to come to the property to prevent a breach of the peace from taking place.

Taking your landlord to court

The council or police can prosecute a landlord in the criminal courts. If convicted, the landlord can be fined and/or imprisoned. You can take action yourself against your landlord in your local county court. You can use the county court to get an injunction ordering the landlord to let you back into your home and/or to get damages as compensation for your landlord's actions. You will normally need a solicitor to help you.

Defence

If your landlord can prove that s/he reasonably believed that you were not residing in your property, s/he has a defence. The matter of whether that belief was held and what is reasonable cause for that belief to be held depends on the facts of the case.

Further advice

You can get further advice from Shelter's free* housing advice helpline (0808 800 4444), a local Shelter advice service or Citizens Advice bureau, or by visiting shelter.org.uk/advice

* Calls are free from UK landlines and main mobile networks.



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