

Tenants of borrowers

This factsheet explains how you can remain up to two months longer in your home if your landlord's mortgage lender is trying to repossess the property.

If your landlord has taken out a mortgage or a loan secured on the house or flat you are renting and is in arrears, then her/his lender may take court action to get possession of the property. The lender will usually be a bank, building society or other financial company. If the lender gets a possession order s/he can then obtain a warrant to evict you and all other occupiers. Until recently, tenants of borrowers had little or no warning that they were about to be evicted and most tenants could not delay the eviction. However, laws introduced in October 2010 may now give you more time to find somewhere else to live.

If your landlord's lender is taking possession action, you should get a letter from them giving you notice of any court hearing. What you can do next depends on whether or not your tenancy is 'authorised'.

Authorised tenancy

If your tenancy started before your landlord took out a mortgage on the property, or after the mortgage was taken out and with the consent of the lender, then your tenancy will be authorised and binding on the lender. This means that if the property is repossessed, the lender will become your new landlord. If the lender then wants to evict you, they will need to take new court proceedings against you.

If you think you have an authorised tenancy and you find out that your landlord's lender is seeking possession, contact the lender to see if they agree that you will be their tenant. If not, you can ask the court to decide whether you can stay in the property as the lender's tenant.

Unauthorised tenancy

If your tenancy started after your landlord took out a mortgage on the property but without the lender's permission, then your tenancy is unauthorised and will not be binding on the lender. However, you can go to the court on the day of the hearing and ask the judge to postpone possession for up

to two months in order to give you time to find somewhere else to live.

If the order has already been made, you should telephone the lender or their agent asking them to agree not to evict you for up to two months. If they do not agree you can ask the court to stay or suspend the eviction – see below.

If you get a notice of eviction (form N54)

The notice shows the date and time that the bailiff will come to evict you. The lender should also send a 'notice of execution of possession order' to the property at least two weeks before the eviction date. If you need to stay longer in the property, telephone the lender or their agent to ask for more time and, unless they withdraw the warrant, complete the court form N244 requesting a stay or suspension of the warrant (there may be a fee to pay).

The court will arrange a hearing and if you are an unauthorised tenant you can ask for up to two months longer in the property (provided the court has not already agreed to postpone the order). The court may order you to make payments to the lender for the occupation of the property. If you are an authorised tenant, you can argue that the eviction should not proceed because you are now the lender's tenant.

If you have a letter telling you to pay rent to a 'receiver'

A lender may in some circumstances appoint a 'receiver' to collect rent directly from tenants. Seek advice if you are unsure who to pay your rent to.

Further advice

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

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



Specialist support on housing advice

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