

## **UNLAWFUL EVICTION AND HARASSMENT BY LANDLORDS**

Under the Protection from Eviction Act PEA 1977, as amended by the Housing Act (HA) 1988 there are two offences:

- Unlawful eviction of a residential occupier; and
- Harassment of a residential occupier.

### ***Illegal Eviction***

- Your landlord must follow the legal rules to lawfully evict you. In most cases, they must give you written notice, get a court order and apply for the court bailiffs to evict you. Illegal eviction is a criminal offence.
- The fact that your landlord owns your home does not give them a right to evict you in any way they see fit. Your landlord must give you the right kind of notice. This will depend on the type of agreement you have and the reason for the eviction. You may be entitled to up to two months' notice. After your notice period has ended, your landlord must apply to the court for a possession order. If you don't leave on the day the court says you should, your landlord must go back to the court and get a bailiff's warrant. If your landlord forces you to leave before the bailiffs arrive then you have been illegally evicted.
- Under the HA 1996 s 175 2(a) a person unlawfully evicted retains a legal right to occupy the home. In such a case, a court order is required to gain re-entry but if the person has priority needs.
- The local authority is obliged to provide temporary accommodation for as long as it takes to obtain and enforce an injunction. The Code says, 'an authority cannot refuse an applicant who is homeless and eligible...simply because such remedies are available.' In such case the local authority could assist the person to get an injunction in order to regain entry or persuading the landlord. A person who does not enforce his or her rights through the courts is not intentionally homeless

There are some exceptions to when you could be evicted and it may not be deemed an illegal eviction, such as:

### **Sharing accommodation with Landlord**

If you share accommodation with your landlord, they will not normally need a court order to evict you. They only need to give you reasonable notice. There are a few other situations where the landlord will not need to get a court order. Get advice if you want to be clear about your rights.

Some actions will nearly always count as illegal eviction. Your landlord will probably be committing an offence if they:

- *change the locks while you are out*
- *threaten you if you do not leave*
- *physically throw you out*
- *stop you getting into parts of your home.*

### **What to do if at risk of this happening**

Get your council involved. Ask your council if they have a 'tenancy relations officer' (TRO), or another officer, to help tenants who are experiencing harassment or illegal eviction. It helps to involve the council at an early stage.

The council could speak to the landlord on your behalf and notify them of your rights as a tenant, could inform the landlord of the sanctions they face or that they are at risk of prosecution if they unlawfully evict or do not allow you access back into your home.

### **Taking your landlord to court**

The council or police can prosecute a landlord in the criminal courts. If convicted, the landlord can be fined or imprisoned.

You can also take court action yourself. You can use the county court to get an injunction ordering your landlord to let you back into your home and to get damages as compensation for your landlord's actions. You normally need a solicitor to help you. If you are on a low income or claim benefits, you may be able to get legal aid

### ***Residential Occupier***

This is defined as a person occupying the premises as a residence, whether under a contract or by virtue of any enactment or rule of law giving him the right to remain in occupation or restricting the right of any other persons to recover possession of the premises. The definition has two aspects

- The factual issue of whether the person is occupying as a residence
- The nature of person's right to occupy or any restriction on the right of another person to recover possession.
  - This can be under a contract; or
  - By virtue of some enactment or rule of law that either gives the occupier the right to remain in occupation or restricts the right of any other person to recover possession.

Landlords are not allowed to evict tenants without following due court process.

### ***PEA 1977 s 3 (Protection from Eviction Act): restriction on eviction other than by court proceedings***

This applies where the premises have been let as a dwelling under a tenancy which is neither a statutory protected tenancy nor an excluded tenancy. Additionally, this applies to premises occupied as a dwelling under a licence provided it is not an excluded licence.

### **Harassment**

Local authorities can and also have the power to prosecute offences committed under PEA 1977. To succeed, they have to prove their cases beyond reasonable doubt. You may be able to get help from the council or take your landlord to court.

Harassment is something that your landlord, or someone acting on their behalf, does which aims to

- disrupt your life at home
- make you leave.

### **Types of harassment**

- disconnecting your electricity or gas supply
- entering your home (or room) without your permission
- threats or violence
- harassing you because of your gender, race or sexuality
- opening your mail
- confiscating your belongings
- starting disruptive repair work and not finishing it

### **Under Common Law /Torts**

There are two of these relevant to claims for unlawful eviction and harassment against landlords.

### **PROTECTION FROM HARASSMENT ACT 1997**

This behaviour is both a tort and a criminal offence. Following a conviction for either, the criminal courts can impose restraining orders to protect the victim from further harassment or conduct causing a fear of violence.

Where a civil injunction has been granted to restrain the defendant from pursuing a course of conduct that amounts to harassment, it is a criminal offence to do anything prohibited by the injunction without reasonable excuse. Damages are calculated on the basis of a sum for each day/night of occupation.

These are the following remedies:

- I. Special damages;
- II. General damages;
- III. Aggravated damages;
- IV. Exemplary damages.
- V. Injunction

### ***Housing Act 1988: Unlawful Eviction***

Section 27 created a specific tort of unlawful eviction. Two ways this tort can be committed.

- I. ***Unlawful Eviction***: This is committed when the landlord or any person acting on behalf of the landlord unlawfully deprives a residential occupier of his or her occupation of the whole or part of the premises.

***Attempted Eviction or harassment***: This is committed where a landlord or any person acting on behalf of the landlord either attempt to unlawfully evict a residential occupier or harasses a residential occupier