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Rental Property Knowledge: a website for Landlords, Letting Agents and Tenants. This site hosts the **UK's busiest rental property forum**

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LandlordZONE

RENTAL PROPERTY KNOWLEDGE

Managing Rent Arrears and Debt Collection

If you're a landlord, or in any other business, sooner or later someone will owe you money. Whilst we can sympathise with those in financial difficulties, it's often futile to prolong the agony; the banks certainly don't, so why should you?

Yes, you should try to investigate. Maybe your tenant is going through a difficult trading period, or your residential tenant has been made redundant? You may be able to re-schedule rent payments and/or advise on Housing Benefit claims.

But in my experience tenants in debt don't always communicate well: in fact they often fail to communicate at all, not responding to telephone calls, letters or even knocks on the door.

With commercial tenants we can use the short-sharp shock of bailiffs, or even the forfeiture procedure, but there are situations where it's preferable not to force the issue. A wiser course may be to use

court action and get your tenant to assign the lease, thus releasing funds to pay the debt: this way you end up with no debt, a viable tenant, no void period and no letting expense!

The rent arrears claims procedure with residential tenants is fraught with difficulties. Sometimes it's better to go for possession at the end of the 6-month fixed-term, chasing the debt later.

Making a claim through the Small Claims Court can be a very effective way of doing this. The court system grinds along at a snail's crawl pace but it can achieve the desired result in the end.

Very often, using a solicitor to handle the claim does not make commercial sense: fees are too big a proportion of the settlement - Small Claims Track - up to £5,000. With the Fast Track - up to £15,000 and the Multi-Track - above £15,000 you can still DIY, but a lawyer's



expertise will perhaps be more effective with bigger amounts.

A DIY small claim is not rocket science and handling it yourself gives you a lot of flexibility. The system is designed for and is sympathetic to the lay person. Invest a little time and you can develop debt claims expertise the equal of any solicitor.

After statements and phone calls have failed, send a Final Demand / "Letter before Action" giving 14 days to pay!

Don't forget to mention expenses, court fees and interest claimed in accordance with legislation, and that judgments awarded will adversely affect future credit, tenancies or insurance.

Welcome

Welcome to the July issue of the LandlordZONE Newsletter.

We won't be sending out a full Newsletter in August as its holiday time, but we will send out a brief mailing with some information for our subscribers.

With this mailing we have just topped 20,000 subscribers.

Also, due to increasing traffic to LandlordZONE we

have this month switched to a larger dedicated server.

This has been a substantial investment on our part and has not been without its technical problems, but we are hopeful that when everything settles down we'll have a much faster service.

The LandlordZONE Question and Answer Forum now has over 6,000 members and is without doubt the busiest of its kind in

the UK—there are constantly well over 100 visitors at any one time.

This issue looks at rent arrears and debt collection. As storm clouds appear to be gathering on the horizon—see News Items Page 5—it's perhaps an opportune time to consider what to do if times get tough—and every landlord's nightmare—no rent.

Tom Entwistle, Editor.

Landlords - Rent Arrears and Debt

Nothing gives landlords more concern and sleepless nights than tenants that don't pay rent.

In the landlording business Cash Flow is king so any interruption to your income stream represents a major problem, particularly if you are relying on your rental income to pay a mortgage.

Success in this business revolves around selecting tenants that DO pay rent and avoiding the bad ones.

However, anyone can fall on hard times and some tenants

get into arrears through no fault of their own.

If a break in rent payments will cause you as landlord a major financial problem you should seriously consider Rent Guarantee and Legal Expenses Insurance—it's relatively inexpensive for the peace of mind it offers.

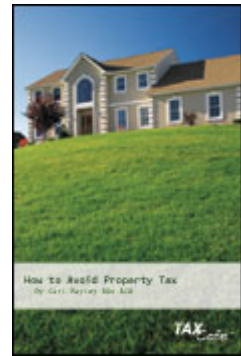
Your main priority is to restore that cash flow, either by helping your tenant through the problem, or if necessary replacing that tenant as quickly as possible.

There are 17 grounds on

which a residential tenant can be evicted legally if they are on an AST tenancy—most of them are now.

These involve service either a section 8 or section 21 notice on the tenant—see below.

In the case of commercial property, rent arrears can be dealt with quite swiftly, either by court action, by employing a private bailiff or by using a legal procedure known as forfeiture, though there are pros and cons to each—see below.



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Renting out a property can be a lot harder than it looks. Long-term landlords need to treat rentals as a business and run it professionally. You also need to be ready to tackle several challenges in a competitive market – a company such as **LettingAgent.com** can help you overcome each of them.

20,000 Landlords now have access to this highly competitive service.

The Let-Only service is particularly popular (3% of gross rent).

Available throughout the UK. For details call **0800 183 0070** or visit the website



Rent Arrears & Possession—Residential

When your tenant gets into rent arrears it's important to do an objective assessment of the situation. You need to ask yourself these questions to form the basis of any decision you make:

Is the tenant in the fixed term or a periodic term?

How long to the end of the fixed term?

The total amount of rent owing.

What's the likelihood of the tenant re-commencing payments and paying off arrears?

Are there other factors such as damage or neighbour problems?

You need to bear in mind timing: court procedures for possession can take between 3 and 6 months, even using the so-called Accelerated Possession.

A Section 8 claim for rent arrears will not necessarily result in possession, and you need to PROVE arrears to get any money back.

A Section 21 shorthold ground claim, providing your paper work is in order, guarantees possession, but

the fixed term must be up and you need to have give 2 months' notice.

Assuming an AST (you must use Section 8 for assured only tenants) then it's often more expedient to go for possession using the shorthold ground and then either write off the debt or claim the rent arrears / damages later using the Small Claims procedure.

Get more detail on this here:

[Rent Arrears & Evictions](#)



[Rent Arrears & Evictions](#)

[Agreements, Forms and Notices](#)



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The Small Claim Process

Claim Forms are available from your local County Court or you can use the [Court Service Web Site](#) or [Money Claim Online](#) to start off the process.

Before you start any legal action you must have warned your debtor (the Defendant) that you will take action if payment is not made by a certain date, or at lease arrangements have been made to make payment. This is known as a "Final Demand" or "Letter before Action"

You can download one of these and other notices from our [Agreements Section](#)

On the claim form or in a separate "Particulars of Claim" statement you need to state very clearly and concisely exactly what your claim is for and why you are claiming this. You should include the amount you are claiming and state that you are seeking interest.

There is absolutely no substitute for good evidence. Although some may be verbal, written evidence corroborating your story is vital.

It's a good idea to provide a Witness Statement from yourself backed up with cited evidenced all referenced in the text and numbered (Exhibit 1,2,3 etc), put into a bundle with index.

Occasionally it may be necessary to provide other witness

statements / reports from experts.

Remember, the Small Claims process will not allow you to claim costs for legal representation. You may however be able to claim the costs for expert assistance but only if both parties to the dispute have agreed to this.

See an example of a Particulars of Claim letter and Witness Statement in our [Agreements Section](#).

You will need to send all the paperwork including additional copies of everything for the court and the defendants—follow the instructions with the forms.

A court seal is put on the papers and copies are sent out to the defendant with a form for defending the claim, a form for admitting the claim and a form for acknowledging service, which the defendant must complete and send back.

The court will usually send you a copy of the defendant's reply together with instructions on what to do.

Opponents may bring all sorts of spurious and emotional arguments and accusations into the process. The best policy is to ignore all of this and stick strictly to the facts of the case—the last thing a judge wants to do is read

through reams and reams of mud slinging.

Hearings will usually last no more than 1 day, usually just a couple of hours if it's straightforward.

The court may even deal with your case without holding a hearing by considering your case "on paper". Court can also deal with cases by a "telephone hearing" or "video conferencing" if you and your opponent agree.

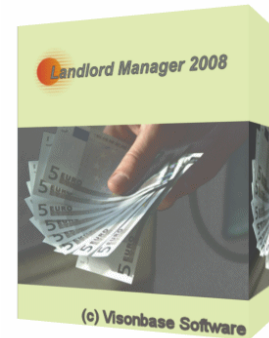
There's no need to be nervous as the process is very informal, usually round the judge's desk, though you need to follow the rules.

Refer to the judge as sir or madam, and be polite and courteous to your opponents and the judge—wait for instructions and don't interrupt.

Judges are usually sympathetic to laypersons and will help you get your story across.

Preparation and organisation are the keys to success, keeping everything organised, clear and concise.

Judgement is usually immediate and costs will be agreed. The judgement will be sent in writing within a week and you will then await payment if you win. Enforcement may be necessary if the defendant does not pay.



[Money Claim Online](#)

[Court Service Website](#)

[Civil Procedure Rules](#)

[Small Claims Court](#)



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Give Me Your Money: Debt Collection by Anthony Reeves

If you want a Straightforward and concise guide to recovering debt through the court system then this is your book. Written by Anthony Reeves who has worked with LandlordZONE for several years now, on debt collection for landlords, he works for a firm of solicitors in Bath.

Anthony has published books on debt collection and employment law since 1998 including See You in Court, The Employment Handbook, The Litigation Handbook and The Path to Justice.

Although solicitors are definitely needed for the more complex cases and certainly if

amounts are high, it's surprising how much the layman can achieve in debt collection with a little knowledge and a small investment of time.

This book, and indeed the Small Claims Track as a whole, is designed for the layman, and in my experience judges are quite sympathetic to those amateur claimants who have made an effort to get the details right.

Remember, Noah's Ark was built by amateurs, the Titanic was built by professionals!

Starting off with prevention rather than cure, the book takes you through the process

of credit checking and terms of business.

This is followed by sections on chasing commercial and individual debtors.

Sections on issuing a county court claim and taking a defended claim to trial are particularly useful—they will give you the confidence to DIY without the help of Perry Mason.

Finally a section on collecting the money after a successful judgement is quite vital.

Good solid advice in a concise and easily understood form—just what the busy landlord ordered.

Tom Entwistle



London Landlord's Day

LandlordZone.co.uk is supporting **London Landlords' Day**, consequently, LandlordZone.co.uk readers are invited to attend on **Thursday 6th September at Olympia**.

This event, in its eight year, is produced by Accession UK, organisers of the Landlord Show. **London Landlords' Day** is supported by the **London Landlord Partnership**, **London Landlord Accreditation Scheme** and various London universities and councils. London Landlords' Day is the only landlord event dedicated to the capitals' large and diverse landlord community and will boast a comprehensive exhibition and free seminars.

Book your **FREE TICKETS** now on www.londonlandlordsday.co.uk.



Commercial Tenants in Arrears

With Commercial Property Rent Arrears it's a bit different because there's less statutory rules to follow—not yet anyway!

Whenever a commercial tenant stops paying rent you can bet there's trouble—you need to act fast.

You need to apply sufficient pressure to show that you are serious and that something will happen.

Basically, you have three options:

Serve a "Letter Before Action" and take your tenant to court. This may apply pressure to convince the tenant to either pay up or consider

assigning the lease, which could be a good outcome for the landlord.

Appoint bailiffs to "Levy Distress" which gives the tenant a short, sharp shock, as goods will be taken.

Forfeit the lease—the most drastic step, which may not be the best course of action as you are taking back a vacant property.

You can even enter the premises and change the locks so long as this is done without violence—known as "peaceable re-entry"

However, this last step is more risky and the tenant may be able to get the whole

process overturned - you could end up having to compensate if you get it wrong.

This whole process is currently under review as new legislation is going through—The Tribunals, Courts and Enforcement Bill will replace distress for rent with CRAR—[Commercial Rent Arrears Recovery](#).

When this comes in you will be able to use distress, but in more limited circumstances: you will need a written lease, the tenant will be entitled to notice, rent arrears will need to be substantial and service charges will not be counted as rent, so they will be excluded.



[Tribunals, Courts and Enforcement Bill 2006-7](#)

[Commercial Rent Arrears Recovery \(CRAR\)](#)

[Bailiffs and Investigators](#)

The Property Investor Show—ExCel London 21-23 Sept 2007

The Property Investor Show is the largest dedicated property investment event held in the UK each year and, following its highly successful 2006 exhibition, returns to ExCeL London for a 6th year in September (21st -23rd).

The show is the dedicated property event for serious buyers. So if you are considering buying residential or commercial property for investment purposes - in the UK or abroad - The Property Investor Show will answer all of your questions.

The show will feature property and property-related services from approximately 350 exhibitors including major house builders, developers, estate agents, lenders, brokers, training companies, landlord associations and other leading property experts...and its unrivalled programme of 120 highly informative seminars will cover all aspects of buying, financing and managing your property.

Register online now for FREE admission at:

<http://www.propertyinvestor.co.uk/london/register.asp?pc=LZONE>



News Items:

*As Standard Life slashes the value of its Commercial Property funds and the Bank of England's governor warns: be cautious about how much you lend, be cautious about how much you borrow, there are signs of trouble ahead.

The long awaited property slump, which never seems to arrive, just might be around the corner—history always repeats.

In fact the last time our economy stumbled was 15 years ago so despite, or because of, 60 quarters of successive economic growth, equity markets are jittery.

For the private investor, whether commercial or residential, if you're not too highly geared, a recession won't make a great deal of difference, but all investors do need to be cautious.

*As commodity prices, and lead in particular, go through the roof, there's an epidemic of lead thefts to irritate landlords.

Commercial buildings and churches are vulnerable, so increase your security and anti-access measures—we've had 3 lead thefts in the last 6 months—a few pounds worth of lead gone and thousands worth of damage.





Newsletter
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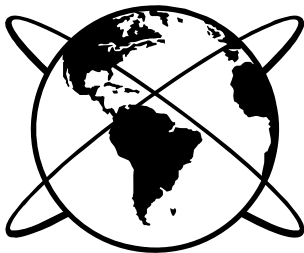
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- Bed-sits
- DSS, asylum seekers, students
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Property Tax Portal was founded in September 2003 by Amer Siddiq who is the managing director of the parent company Tax Portal Ltd. Amer, a former IT professional and property investor himself, is supported by a team of highly qualified tax professionals. They produce the highly successful Landlords Property Tax Manager Software and now run regular Tax Seminars for Landlords and Property Investors. The website is packed full of useful information and products to help minimise your tax payments.

LandlordZONE® - Helping Landlords since 1999 - is a portal website for landlords, tenants & letting agents - a knowledge-base for practitioners, and a marketplace for buyers and suppliers. It gives Free access to all - and with around 1/2 Million visitors per month the site is a key focal point for the rental property industry. The site hosts the busiest rental property Question and Answer Forum for in the UK.

Got a letting problem?—try asking the LandlordZONE® Forum

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