

Eviction

Procedure for Tenants

A brief guide to the steps a tenant
can take in case of an eviction

**citizens
advice**



**free, friendly and
completely confidential advice**

Eviction procedure for Private Tenants

General

There is very little Guernsey landlord and tenant law.

A landlord is entitled to possession of their premises or an **Eviction Order** if:

- The correct notice has been given to determine (end) a periodic tenancy
- a fixed term tenancy has come to an end
- there has been a material breach of the tenancy agreement including non-payment of rent

Eviction Process

The first step for the tenant is to try and agree, preferably in writing, to leave the property amicably. Remember to keep a copy of any correspondence.

If this is unsuccessful, the Landlord will arrange for HM Sergeant's Office at the Royal Court to issue a **Notice to Quit** to the tenants, the cost of which is £57 per tenant (*correct January 2017*) and this cost could be recovered from the tenants in due course. The length of notice depends on the payment of rent, usually weekly or monthly, quarterly or yearly.

Notice to quit

A tenant who rents and continues a tenancy from year to year **without a fixed term** cannot be made to leave the premises without first being given 3 months' **Notice to Quit** through the Office of the Sergeant. If the tenant does not leave after the period of the notice has ended, he/she can be compelled to do so by law (eviction). In this case the Jurats of the Royal Court may give some time for the tenant to empty and vacate the premises.

When a tenancy is made for a **fixed term**, there is no need to serve a Notice to Quit after the time has ended before starting eviction proceedings.

However even if the tenant **fails to pay rent** at the assigned time agreed, the landlord may start eviction proceedings without a Notice to Quit being served.

Summons

Assuming that the tenant remains in possession, the landlord must commence eviction proceedings by issuing a Summons to attend an Eviction Hearing in the Royal Court, either at the end of the notice period (if notice is required) or straight away. The

eviction hearing is usually held before a single Judge who will decide whether an Eviction Order should be granted. At this point a tenant will be asked whether any stay of eviction is requested and if so then another hearing before Jurats will be arranged who will decide on the length of stay.

Eviction hearing

The Landlord then obtains a Court date for an eviction hearing and requests HM Sergeant to serve a summons on the tenants (£57 per tenant *correct January 2017*). On the day of the hearing both parties should attend Court, if the tenant does not attend then it is likely that an immediate eviction order will be granted. The landlord may be granted permission to recover the costs.

If an eviction is granted, and there is no stay of eviction requested and granted, landlords themselves are not entitled to remove the persons or their possessions from the property. The eviction order must be given to HM Sheriff who will evict the tenant with the assistance of the Police if necessary.

Stay of Eviction

If the tenant wishes to request a stay of eviction for any reason then this should be presented to the Judge at the eviction hearing. The matter will then be referred to another Court for the Jurats to consider the length of the stay. It is at this Court hearing that the tenants will be asked to represent their reasons for a stay and the amount of time they would wish to stay in the premises. If a stay of eviction is granted then at the end of the stay period the tenants should leave the premises. If for any reasons the conditions of the stay of eviction are broken then an immediate eviction, without any further reference to Court will be actioned.

Costs

The landlord has to pay various costs for the Notice to Quit, the Summons and the hearings but can apply to the court to claim these back from the tenant.

General disclaimer

The purpose of this note is to provide general guidance. While it is believed to be accurate and up to date, it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. Users of this guidance note are encouraged to exercise their own skill and care in relation to the information contained in this guidance note and to obtain relevant professional advice.



call us on

24 22 66

For free, friendly and completely confidential advice on:-

Separation or divorce

Employment issues

Petty debts

Housing problems

Guernsey wills

Scams

Unmanageable debt

. . . and much more

Bridge Avenue The Bridge St Sampson Guernsey GY2 4QS

**Open Monday, Tuesday, Thursday 9.30 am to 4.00 pm
Wednesday 9.30am to 6.30pm and Friday 9.30 am to 12.30 pm**

citizensadvice.org.gg

January 2017