

F.A.Qs on Assured Shorthold Tenancies

What is an assured shorthold tenancy?

Most tenancies of houses, flats and bedsits granted at a full rent by private landlords since 1997 (and many earlier ones) are assured shorthold tenancies. The main exceptions are those where the accommodation is not the tenant's main home and those with a resident landlord.

Is a written agreement needed?

No, but it is strongly recommended so that it is clear what has been agreed. If a printed form is used, fill in the gaps so that the whole document makes sense.

Is there any limit to the rent?

The landlord and tenant can agree on whatever rent they find acceptable. There is a procedure for deciding disputes about a proposed change in rent, but this is rarely, if ever, used for shorthold tenancies.

What about other terms?

These are generally as set out in the agreement, but the landlord is always liable for some repairs, such as those to the structure of the building, the drains and the heating and water systems. The landlord must maintain these, as long as the damage was not caused by the tenant and the landlord knows about the problem.

What about a deposit?

The agreement may provide for the tenant to pay a deposit. If it does, for deposits taken from April 2007, the landlord must protect it under one of the statutory schemes, and give the tenant a prescribed form of notice about how he has done it.

Does the landlord have to give the tenant anything else?

He must show him an energy performance certificate before the letting. At the beginning of the tenancy he must give the tenant a copy of the gas safety certificate, if there is a gas supply (and another after yearly inspections). If the rent is payable weekly the landlord must supply a rent book or similar document containing some prescribed information. The landlord must also give an address where notices can be served on him.

What if the tenant wants to leave?

The agreement may contain provisions about this. If there is a fixed term, the tenant can normally just leave at the end and return the keys, but it is sensible to let the landlord know and arrange a final inspection. If the tenancy is from week to week or month to month, the tenant must give four weeks' or a month's notice expiring at the end of a tenancy period. The landlord and tenant can agree to another arrangement, for example if the tenant wants to leave during the fixed term and the landlord is willing to end the agreement prematurely.

What if the landlord wants possession?

The landlord can serve at least two months' notice, as long as it does not expire during a fixed term. If it is not served during a fixed term it must also expire at the end of a period of the tenancy. It is easy to get this wrong, and a solicitor can help you to ensure that the notice is valid. There is no prescribed form of notice, but it must say the right things. Some forms sold by stationers are not correctly worded.

If the tenant has broken the tenancy agreement, the landlord can usually serve two weeks' notice, and in some cases even less. There is a prescribed form for this type of notice. If it expires during a fixed term, the agreement must contain a clause allowing the landlord to end the agreement if the tenant breaks it. Depending on the circumstances the court may not make an outright possession order in these cases, but it has to when there are serious rent arrears.

What if the tenant does not leave?

The landlord will have to issue court proceedings. If there is a written agreement and two months' notice was given, the landlord can probably use the accelerated procedure. This does not usually involve a court hearing before the possession order is made, so the landlord's solicitor is likely to charge less, but it may be no quicker than the traditional procedure. Otherwise there is a hearing a few weeks after issue of proceedings.

What if the tenant does not leave when ordered to?

He will be in contempt of court, but that is of little consolation to the landlord. Once the time is up, the next step is to issue a possession warrant, and a few weeks after that a bailiff will give the landlord possession. The tenant will almost always have left by then. If the court bailiffs are overstretched, it may be possible to persuade the court to transfer the action to the High Court for enforcement, and that is likely to be quicker.

How long does it take to get possession?

It varies from case to case and court to court, but probably around three to four months from service of the notice up to the date when the possession order takes effect. A court bailiff is likely to take three to eight weeks after that to execute a possession warrant.