



Notices to end Assured Shorthold Tenancies

- 1 Most private residential lettings are assured shorthold tenancies. When therefore the Landlord takes the proper steps to end the tenancy the Tenant is unlikely to have any defence and thus the Court will order possession in the event of the Tenant not voluntarily leaving the rented premises
- 2 Unfortunately the notice provisions are not straight forward. What is more and in view of the likelihood that there is no defence, the notice is often studied in great detail in case any 'loopholes' can be found
- 3 This note is intended to give general guidance in relation to the requirements for a valid notice. Please however note due to the complexities in this area that if you want our help in relation to the service of such a notice then you will have to contact us with precise details of the tenancy you have granted and for us to consider the position based on your own facts and advise accordingly
- 4 The relevant provision is Section 21 Housing Act 1988 which is why these notices often get talked of as being 'Section 21 Notices'
- 5 The law requires the service of a valid notice. You must incidentally be able to prove service. If you can you should therefore get your Tenant to sign and date a duplicate, which you can keep, confirming service and the date of receipt
- 6 If you are giving your notice within the fixed term your Tenancy Agreement granted then your notice must give a minimum of two months' notice to the Tenant (that is to say from the date of service) but otherwise can expire on any day
- 7 However, more problems have arisen when a notice is served after the initial fixed period. A Landlord came unstuck in the Court of Appeal where it was found that his notice did not comply with the necessary law and was invalid despite the fact that in a sense it was generous to the Tenant in giving a day longer than the Court said was needed! This is a good example of the pitfalls that can arise
- 8 The position therefore is that the notice must not only be for a minimum period of two months but expire on the last day of a period of the tenancy
- 9 Perhaps two examples can assist

Example 1

A tenancy started on 1st January. It was granted for six months. It therefore expired at the very end of 30th June.

Assuming that the rent is payable monthly and due on the first day of each month a monthly tenancy comes into existence from 30th June, starting 1st July. If therefore a Landlord wanted on 15th July to serve a notice requiring possession, the earliest expiry date for a valid notice would be 30th September. The 'bare' two months would not be 'legal'

Example 2

The 'bad' notice as referred to in the Court of Appeal case. There the fixed term had ended and the 'holding over' tenancy was from the 4th day of one month to the 3rd of next. The Landlord there gave his Tenants a notice requiring possession on the 4th day of a month. It should of course have been 3rd. The notice was invalid and so those possession proceedings failed

- 10 There is no form that the law makes you use for a valid notice. To be safe however you should as well make clear in what you say that it is indeed a notice requiring possession served under Section 21 Housing Act 1988. Assuming again that this is outside the fixed term granted you must therefore make sure that you state that you are serving a notice requiring possession under Section 21(4) Housing Act 1988
- 11 A further important issue exists if the tenancy started from 6 April 2007. A Section 21 notice will not be valid unless the tenancy deposit requirements have been dealt with
- 12 A valid notice is important and we are happy to help if you would like us to look into your case