

Squatters - Interim possession order illegal occupation of premises - Information for occupiers

What is squatting?

Squatting is when you occupy premises without any right to do so. If, for example, you have no tenancy agreement or lease to show that the owner or legal tenant of the property agreed to your occupation, you may be there illegally.

If you know you are squatting and leave the premises voluntarily you may avoid:

- being arrested by the police, or
- being evicted by a court bailiff, and
- having to pay court costs.

Why have I been sent court papers?

Even though you may be occupying premises illegally, the owner or legal tenant must still get a court order to make you leave.

The owner (or tenant) wishes you to leave quickly and has asked the court to make an especially urgent order called an 'interim possession order'.

You will receive the following forms:

N5 Claim form for possession of property,

N130 Application for an interim possession order,

N133 Witness statement of the defendant to oppose the making of an interim possession order.

The form N130 (Notice of application for interim possession order) you have been sent (had 'served' on you), tells you the time, date and place when the court will consider the owner's or tenant's request.

On the notice the owner or tenant is called the 'claimant'. The person (or people) said to be occupying the premises illegally are called the 'defendants'.

Does the notice apply to me if my name is not mentioned in the form?

The notice applies to anyone occupying the premises. If the claimant does not know the names of some, or all, of the occupiers, they will be referred to in the notice as 'persons unknown'.

The notice will only apply to you if you are occupying the premises mentioned in the notice.

Neither the notice of the application nor any subsequent interim possession order, has to be handed to you personally. They can be put through the letter box, or under the door of the premises, or simply fixed to the main door or other prominent part of the premises.

What will happen if the court makes an interim possession order?

If the court makes an interim possession order you will **have to leave** the premises **within 24 hours** of a copy of it being served on you.

You will be committing a criminal offence if:

- you do not leave within 24 hours, or
- you leave, but return to occupy the premises illegally again within a year of the order being served.

The claimant can ask the police to arrest you. If you are convicted of disobeying the court's order to leave and not return, you can be imprisoned or fined, or both.

What should I do when an application for an interim possession order is served?

If you do not have a legal right to occupy the premises, **you should leave.**

If you think you have a legal right to occupy the premises, you should fill in form N133 (witness statement of the defendant to oppose the making of an interim possession order) which was served with the notice. In that form you should provide information ('evidence') which proves you have a legal right. You should include any tenancy agreement, lease or rent book you might have. **The fact that you may have nowhere else to go does not give you a legal right to stay.**

If you are unsure whether you have a legal right to occupy the premises, you should get advice immediately from a solicitor, Citizens Advice Bureau or other advice agency. Court staff cannot give advice about this.

Form N133 contains a statement of truth which you must sign. This confirms that the facts in the witness statement are true.

When you have filled in the form N133, you must send or take it to the court. You must ensure that it arrives at the court **before the time fixed for the hearing of the application.** You should keep a copy of it for yourself.

Remember, it is up to you to give the court all the information it needs to decide whether or not you have a legal right to occupy the premises.

Will I be able to go to the application hearing?

You will be able to attend the hearing and give oral evidence if so required.

What information will the court have from the claimant?

When the claimant issues the application for an interim possession order, it must be accompanied by a statement to support the application. This will provide information to show that the claimant:

- has an immediate right to possession of the premises, that is, is the owner or legal tenant;
- is the owner or legal tenant of the premises at the time illegal occupation began;
- is making the claim against a person (or people) occupying the premises without permission;
- is making the claim within 28 days of the date in which the claimant first knew (or should reasonably have known) that the premises were being occupied illegally;
- is only making a claim for possession.

The claimant must also prove that a copy of the application was served.

Because of the serious effect of an interim possession order, the claimant will normally promise the court (give 'undertakings'):

- to let you back into the premises and pay you damages if the court later decides the claimant was not entitled to an interim possession order; and

not to:

- let the premises to anyone else or damage them, or
- damage or dispose of any of your possessions

until the court has made a final decision about your right to occupy the premises.

It is a criminal offence for an claimant to give false or misleading information to obtain an interim possession order. If convicted of doing so, a claimant can be imprisoned, or fined, or both.

What will happen at the hearing of the application for an interim possession order?

The hearing will normally take place in the judge's room (called 'chambers'), in private, although the judge can decide the case should be heard in open court.

The judge will consider the claimant's written evidence, and your witness statement if you have sent one, and decide whether or not to make an interim possession order. To help reach a decision, the judge may ask either you or the claimant questions about the information in your statements.

The judge can still make a decision even if neither you nor the claimant attend the hearing.

If the decision is that no interim possession order will be made, the judge will say when and how the claimant's claim for possession of the premises should be handled (called 'giving directions').

Normally these will be that the claimant's claim should be dealt with at a later hearing. This hearing will take place in open court, which members of the public can attend.

A copy of the judge's directions (an 'order') and a copy of the claimant's written evidence will be sent to you by the court. The order will include the time, date and place of any further hearing.

You can attend that hearing. You may also give the court any additional evidence you have to support your claim to be occupying the premises legally. You may do this whether or not you provided a witness statement opposing the making of an interim possession order.

If the judge decides that you are occupying the premises illegally and makes an order for you to leave you must do so. If you do not, the claimant can ask the court to issue a warrant of possession. This allows the court bailiff to evict you from the premises.

What will happen if the court makes an interim possession order?

The interim possession order must be served on you **within 48 hours** of it being approved by the judge.

You must leave the premises within 24 hours of it being served. The order will tell you the time and date it was served.

If you do not leave within 24 hours, the claimant can ask the police to arrest you for disobeying the court's order. If you are convicted, you can be imprisoned, or fined, or both.

The order contains the time, date and place of a further hearing, the 'return date'. You can attend court on the return date and may give evidence to prove you have a legal right to occupy the premises.

On the return date, the court may:

- make a final order for possession;
- dismiss the claimant's claim for possession;
- give directions about how the claim for possession should be handled;

or

- enforce any of the claimant's undertakings.

If the court decides that an interim possession order should not have been made, you may ask the court to consider what compensation (if any) should be paid to you by the claimant as agreed in the undertakings given to the court.

Do I have to wait until the return date to object to the interim possession order?

No. You can object to the interim possession order before the return date (called applying to 'set it aside'), but only if you have complied with the interim possession order and have left the premises.

You may have to pay a fee for making the application. Court staff can tell you how much this is.

How do I apply to set aside the interim possession order?

You should ask the court for a form N244 (Notice of application) and form N133 (Witness statement). You should fill in both forms and send or take them to the court.

You cannot apply for the interim possession order to be set aside because you did not attend the hearing at which the order was made.

What will happen when I make an application to set aside the interim possession order?

Court staff will refer your application and witness statement to a judge. The judge will decide:

- when the hearing of your application should take place, and
- whether the claimant should be sent copies of your application and witness statement, and, if so,
- how much notice of the hearing the claimant should be given.

If the claimant is not told initially of your application, the only matters the judge will deal with at the hearing is whether

- the interim possession order should be set aside; and
- any undertakings to re-instate you should be enforced.

The judge cannot, for example, deal with the question of compensation. This and any other matters will be dealt with on the return date (the date given on the interim possession order). This will still go ahead unless the court orders otherwise.

If the judge agrees that the order should be set aside, you will normally be able to move back into the premises until any further order giving the claimant possession is made.

You and the claimant will be sent a copy of any order the judge makes.