



## 5 Top Mistakes that Landlords Make in Possession Claims

### 1 Failing to protect the tenancy deposit or serve the prescribed information relating to the deposit scheme

If a landlord has failed to protect the tenancy deposit within a deposit protect scheme or serve the prescribed information upon the tenant on time or at all then this can significantly affect any claim for possession. This can cause eviction notices to be invalid, deposits to have to be returned and potentially a significant claim/counterclaim for up to 3 times the deposit sum.

### 2 Failing to serve the prescribed requirements

For any tenancies after 1st October 2015 (and for all tenancies after 1st October 2018) prior to the start of the tenancy, landlords are required to provide the tenant with:

- An energy performance certificate (EPC) free of charge;
- Gas Safety Certificate;
- Up to date 'How to Rent' Government Booklet

A Section 21 Notice will be invalid if a landlord has not complied with the above.

### 3 Issues over service of the notice

Tenants frequently allege that they have failed to receive a copy of the notice in order to frustrate the proceedings. Sending the notice by a combination of methods is usually the best way to ensure service.

### 4 Errors in the notice

There are different forms of eviction notices which can be served on a tenant in different circumstances. This, along with the fact that there are usually different versions of these notices to reflect changes in legislation, often causes landlords to serve defective documents. Any errors within a notice can be fatal to a claim as Courts usually take a strict approach in possession proceedings.

### 5 Not understanding the law or procedure

All Court proceedings carry specific procedures and requirements and failure to abide by these can cause a claim to be struck out. This is not always appreciated by a prospective Claimant and unfortunately being unfamiliar with Court process or the law will not assist in avoiding strike out or re-instating a claim. A struck out claim often carries cost consequences; firstly a landlord will incur the costs of re-issuing a claim and secondly they may be responsible for the other sides' fees for defending the proceedings. Often a landlord will have a reasonable claim against their tenant but due to their lack of legal knowledge may fail to express legal arguments clearly to the Court or at all. Possession claims are usually straight forward and dealt with fairly quickly however it is important to obtain legal advice in order to avoid complications.