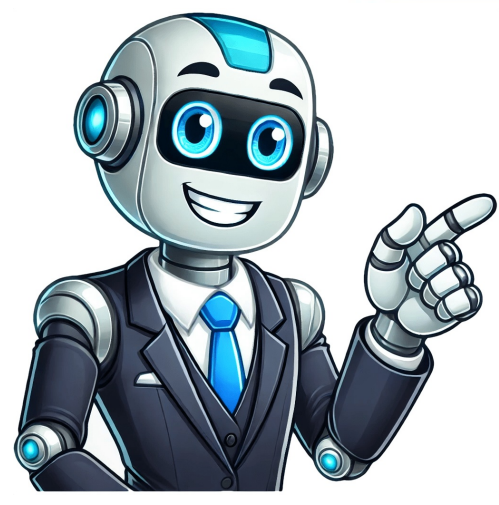


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Tenancy or licence agreements can be written or verbal and the label on the agreement does not determine the real status of the occupiers. The terms of a tenancy or licence agreement can be negotiated between the landlord and the prospective tenant. In practice, the tenant might not have much power to negotiate favourable terms. Before a tenant signs up to a tenancy they should read the agreement carefully and check, the amount of rent, whether the rent includes payments for council tax and bills, show when the rent is due, and when it is payable, is there a rent review clause? If a private landlord, the amount of the deposit, if there are any other charges, is it for a fixed term, and if so is there a break clause? What does the tenant have sole use of, what facilities do they share with others, how the tenancy can be ended, what the tenant's and landlord's obligations are to repair and/or decorate the property, whether the tenant is allowed to sublet or assign the tenancy, who the tenant should contact if there are any problems during the tenancy. See the Competition and Market Authority guidance for information on unfair contract terms. The landlord must provide the tenant with a rent book or similar document where the rent is payable weekly. [1] There is no requirement for a landlord to provide a rent book to a licensee. The terms of tenancy and licence agreements can be set out in writing or agreed verbally between the landlord or the tenant. Verbal agreements have the same status in law as written ones. Putting the terms in writing means both parties are clear about their obligations. An exchange of emails or text messages setting out agreed terms make up part of the contract. They are evidence of terms that have been agreed. Agreements cannot take away the rights granted by legislation to tenants or licensees, even if the tenant agrees to it in writing. A periodic tenancy is a rolling tenancy with no fixed end date. The term of the tenancy is either set out in the agreement, or implied by the rental period. This means that if the rent is stated as a weekly amount, the period of the tenancy is weekly, even if the agreement states that the rent must be paid fortnightly in advance. The Supreme Court held that where an agreement for what purported to be a 'month-to-month' tenancy with basic protection did not allow the landlord to end the tenancy by service of a notice to quit, it was a tenancy for 90 years. [2] A tenancy cannot be granted for an undefined term. Under the Law of Property Act 1925 a tenancy for life is classed as a tenancy for 90 years. A fixed-term agreement may specify that the tenancy is to continue on a periodic basis on expiry of the fixed term, in which case it becomes a contractual periodic tenancy after the fixed term expires. To avoid Rent Act and Housing Act protection, landlords have tried to give agreements that purport to be licences when they are actually tenancies. It is the reality of the situation and not the label attached to an agreement that determines whether an occupier is a tenant or a licensee. [3] Read more about Sham tenancy agreements on Shelter Legal. If there is evidence that a term in an agreement was never intended to be effective, the evidence can override the written agreement to determine whether the agreement is a tenancy or licence. In some cases, occupiers have signed agreements saying that they will allow the landlord to share their home or to place other occupiers in their home. These have often been challenged on the basis that the terms were not intended to be effective and that they were simply false devices to avoid the creation of a tenancy agreement. [4] A written agreement provides evidence of what was intended and the burden of proof is on the person seeking to overturn the provisions of a written agreement. Sharing arrangements can cause difficulties in establishing the status of the occupiers. In a joint tenancy, the tenants must have unity of: time, title, possession, interest. This means that the tenancy must be the same tenancy for all tenants, entered into at the same time and under the same agreement. Two House of Lords judgments illustrate how the courts have approached shared occupancy arrangements. In one case, a couple who were living together signed separate licence agreements for a one-bedroom flat. The landlord claimed to have the right to permit other people to use the flat and reserved the right to move in with the occupiers. It was clear from his failure to move in over time, and the fact that the accommodation was too small, that there was no genuine need for this clause. The House of Lords decided on the facts of the arrangement that the occupiers had exclusive possession. It held that the licence agreements were a pretence and that the occupiers really had a joint tenancy of the flat. [5] In the second case, the occupiers were four single people who shared a four-bedroom flat. They had separate licence agreements with separate and different rents. Their rights of occupation were granted at different times. As one occupier left, they were replaced by a different occupier. No one had exclusive possession of any part of the flat and collectively they did not have a tenancy of the whole or any part of the flat. There could be no joint tenancy because each of the occupiers had arrived at different times and paid a different rent, so there was no 'unity of interest'. The House of Lords held the licence agreements to be genuine. [6] A landlord and tenant could sign a tenancy agreement before the tenant is due to move in. The tenancy agreement is a legally binding contract. A verbal agreement is legally binding, but it is harder to prove what was agreed. An exchange of text messages or emails can provide evidence of agreed terms. The tenant can issue a money claim against the landlord for breach of contract if the property is not available to them on the first day of the tenancy. The tenant could issue a court claim for specific performance, which is a remedy in contract law. This means that the court can order the landlord to do what they agreed to. Tenants are not protected from eviction until they occupy a property. A landlord who does not allow a tenant to move in does not commit an offence of unlawful eviction. The landlord can issue a money claim for the rent due under the contract if the tenant does not move in. The tenant can defend the claim if they did not move in because the property was not as described, fit to live in. Most money claims are issued in the County Court. Read more about defending a money claim on Shelter Legal. Furnished properties must be fit for human habitation on the first day of letting. This is an implied term, meaning it is treated as part of the tenancy agreement. It comes from case law. This rule for furnished properties is different from the implied term under section 9A Landlord and Tenant Act 1985 that all properties must be fit for habitation. The landlord is in breach of the tenancy if the property is unfit to live in. This also applies if the unfitness is not obvious at the time of the letting but the tenant becomes aware of it during the tenancy. This term does not apply to unfurnished lettings. There is no statutory definition of what a furnished property must contain. The common law definition of unfitness has included where the property is infested with bugs, has defective drainage or sewerage, is infected with disease, has insufficient water supply. If the property is unfit for habitation on the day of letting, the tenant can: give up the tenancy without liability for rent, take court action for breach of contract. The tenant normally has to leave before they have paid any rent. Payment of rent might be considered acceptance of the condition of the property. The tenant can argue this is not the case if the unfitness was present at the date of letting but not apparent to the tenant. The landlord might try to hold the tenant to their obligations under the tenancy if they do not agree the property is unfit for habitation. The landlord might bring a claim for rent arrears against the tenant or their guarantor. This might be straight away or at a later date, for example after the full fixed term of the tenancy has passed. The court would decide whether the tenant had been entitled to end the tenancy. If a person lacks the mental capacity to sign a tenancy agreement, someone else can sign the agreement on the person's behalf with the authorisation of the Court of Protection. [7] This situation principally arises when an adult with learning disabilities is moved from hospital or a care home into supported living arrangements in the community. Normally, the Court's authority must also be sought in relation to signing an agreement to terminate the tenancy. A tenancy agreement does not terminate on a landlord's death. Where there is a will, the executor of the landlord's estate takes over the interest of the landlord, until such time as the property is either transferred to the successor or sold. [8] Where the landlord did not leave a will, the property passes to the Public Trustee until a member of the landlord's family obtains a grant of administration of the estate. [9] A new landlord is bound by the terms of an existing tenancy agreement. Last updated: 9 September 2024 Navigating the rental market can be a daunting task, especially when it comes to understanding the legalities of tenancy agreements. Whether you're a first-time renter or a seasoned landlord, knowing when a tenancy agreement becomes legally binding is crucial for protecting your rights and responsibilities. In this comprehensive guide, we'll explore the ins and outs of tenancy agreements in the UK, offering you clear and actionable advice. Plus, discover how Contend's innovative AI legal assistance can simplify this process, making legal guidance accessible and understandable for everyone. A tenancy agreement is a contract between a landlord and tenant, outlining the terms and conditions of the rental arrangement. It covers everything from the duration of the tenancy, rent, deposit details, to the obligations and rights of both parties. Understanding your tenancy agreement is the first step towards a harmonious landlord-tenant relationship. How can I resolve a dispute over my tenancy agreement? A tenancy agreement becomes legally binding when both the tenant and the landlord have agreed to the terms, either verbally or in writing. However, it's highly recommended to have a written agreement to avoid disputes and ensure clarity. Here's a closer look at how this process works: Offer and Acceptance: The agreement takes effect when the landlord offers the property, and the tenant accepts these terms. This can be as informal as a verbal agreement for tenancies under three years. Signing the Agreement: For added legal security, both parties should sign a written agreement. Once signed, the contract is legally binding, and both parties are obligated to adhere to its terms. Witnessing: While not a legal requirement, having the agreement witnessed can add an extra layer of security, especially in disputes. Understanding the different types of tenancy agreements is essential, as the specifics can affect when and how the agreement becomes binding: Assured Shorthold Tenancies (AST): The most common form, typically used for private residential properties. Non-Assured Shorthold Tenancies: Used when the AST criteria are not met, such as when the rent is significantly high or the landlord resides in the property. Fixed-Term and Periodic Tenancies: Fixed-term tenancies last for a set period, while periodic tenancies run week-to-week or month-to-month. How can I ensure my tenancy agreement is legally binding? To ensure your tenancy agreement is legally binding and comprehensive, it should include several key components: Identifying Information: Names and contact details of the landlord, tenant(s), and the property address. Rental Term: The start and end date for fixed-term tenancies or the notice period for periodic tenancies. Rent Details: Amount, due dates, and payment method. Deposit Information: Amount, protection scheme details, and conditions for return. Tenant and Landlord Obligations: Maintenance responsibilities, rules regarding subletting, pets, and alterations to the property. Termination Conditions: How the agreement can be legally terminated by either party. Is my tenancy agreement missing any key components? Understanding the intricacies of tenancy agreements can be overwhelming. This is where Contend steps in. Our AI-driven legal assistance demystifies the legal language, offering you tailored advice on your tenancy agreement. Whether you're unsure about your rights, responsibilities, or the legality of your agreement, Contend's AI legal experts are here to guide you through every step, ensuring your tenancy agreement is fair, clear, and legally binding. Is my tenancy agreement fair and legally binding? A tenancy agreement is more than just a piece of paper; it's a legally binding document that protects both the landlord and the tenant. By understanding when a tenancy agreement becomes legally binding and ensuring all the essential components are included, you can create a secure and harmonious rental experience. And with Contend's AI legal assistance, navigating the complexities of tenancy agreements has never been easier. Chat now with Contend's legal expert and take the first step towards understanding and resolving your tenancy agreement concerns. With Contend, legal help is not just reliable—it's accessible, making it the easiest legal help in the UK. Your landlord should give you a copy of the government's 'How to rent' guide - though they don't have to do this if you're renting from a housing association. You can see the 'How to rent' guide on GOV.UK. If your landlord still won't return the illegal fees you can take them to a First-tier tribunal. You can find out about First-tier tribunals on GOV.UK. For more info, check out some of our related articles: We use some essential cookies to make this website work. We'd like to set additional cookies to understand how you use GOV.UK, remember your settings and improve government services. We also use cookies set by other sites to help us deliver content from their services. You have accepted additional cookies. You can change your cookie settings at any time. You have rejected additional cookies. You can change your cookie settings at any time.