

Name: [REDACTED]

Membership no: [REDACTED]

1. Competency: 1

Learning Outcome: 1.2

Apply relevant procedure to a matter.

2. Evidence provided:

Application notice with supporting evidence and court order. Pages 15-21.

3. Outline how the evidence demonstrates you meet the outcome

Legal procedure: Section 4 of Civil Procedure Rule Practice Direction 55 (PD 55) relates to court orders fixing a date for possession of residential premises where the court has previously made an order against a council tenant postponing the date for possession under section 85(2)(b) of the Housing Act 1985.

How it applies to the matter: A local authority tenant had accrued rental arrears on her account. Our client department requested for me to apply to the County Court for a possession date to be fixed by the District Judge as to when the tenant must vacate her property.

Explain how the procedure has been used: Following PD 55 I completed an N244 application notice requesting for the courts permission to fix a date of possession. The application stated details about the tenant's housing benefit claim and financial circumstances. The application also contained a copy of the tenant's rental account and a letter from our Housing Team giving the tenant 14 days notice of our application. The tenant did not respond to our application and on 29 November 2013 the District Judge ordered for the tenant to give possession of her property on 27 December 2013.

4. Reflection and evaluation (what you learnt from the activity you undertook to meet the outcome). Note: you may want to complete this section at a later date once you have had time to reflect on your practice and experience.

It is important to understand the relevant legal procedures in order to assist our client department. Without knowledge of the legal procedure the application would never have been sought and I would have proceeded instead to apply for a warrant of possession which would be rejected causing unnecessary costs and delay to our client department.

5. Completion date: 29 November 2013

6. Signed (applicant)

Date:

24/12/13

7. Signed (supervisor)

Date:

24/12/13.

Dear [REDACTED]

Re: Notice of Application for Possession Date

I am writing to remind you of the Postponed Possession Order obtained at [REDACTED] County Court on 13 August 2008 , where you were ordered to pay current rent plus £ [REDACTED] per week.

You have not maintained payments towards your Court Order and your rent arrears have increased to £ [REDACTED]. The reason being that you failed to make payments as ordered.

I attach a copy of the rent account confirming the above, I also enclose a copy of your court costs account.

This leaves me no alternative but to write to you informing you that we intend to apply to the County Court to fix a date on which you have to give up possession of your tenancy at the above address.

This application will be made 14 days from the date of this letter. You have the right to respond to this letter and let us know whether you agree or disagree with what we have said about your missed payments. **You must do this within 7 days of the date of this letter.**

Cont' Over



In your reply, please provide information as to whether or not you have any outstanding claims for housing benefit. Additionally:

- Should you dispute the stated arrears, you must provide details and proof of payments or credits made towards your account; or
- Should you agree with the stated arrears, you must explain why payments have not been made towards your account.

As part of your response you also have a legal right to apply to the court for either:

- Further postponement the date for possession; or
- To stay or suspend enforcement.

Your response will be sent to the court with the application.

Once we apply for the possession date to the court, the case will be referred to a judge who may deal with the application without a hearing on the basis of the information provided by us and any response received from you. The judge will only list the case for a hearing if they consider it necessary.


If the court agrees with us and sets a date for possession the County Court will then write to you and give you a date when you should give up possession of your home.

If you fail to give up possession on the date the court sets, the council will be entitled to apply to the court for a warrant of possession and ask the bailiffs to set a date for eviction.

I would also advise you that under the Homeless Act 1996 (Part VII) the council's duty is limited where a person is intentionally homeless.

IT IS STILL POSSIBLE TO PREVENT THIS ACTION FROM TAKING PLACE. THIS CAN BE DONE BY PAYING OFF THE ARREARS AND COURT COSTS IN FULL. IF YOU ARE IN A POSITION TO DO THIS PLEASE CONTACT ME AS A MATTER OF URGENCY.

Yours sincerely


Financial Inclusion Officer

General Form of Order

2

In the	
[REDACTED] County Court	
Claim No.	[REDACTED]

1st Claimant: [REDACTED] Council
 Ref: [REDACTED]
 1st Defendant: [REDACTED]
 Ref: [REDACTED]



On the 29 November 2013, District Judge [REDACTED]
 at [REDACTED] County Court, [REDACTED]

Upon considering the application of the claimant dated 30 September 2013 and the documents filed therewith in accordance with CPR PD55 Section IV

Upon hearing [REDACTED] Borough Council in person
 and upon [REDACTED] not attending

It is ordered that:

The defendant must give the claimant possession of [REDACTED]
 27 December 2013

Need help with your problem?

Contact CLS Direct, a free government-funded confidential advice service. 0845 345 4345
<https://www.gov.uk/legal-aid>



Application notice

For help in completing this form please read the notes for guidance form N244Notes.

Name of court [redacted] County Court	
Claim no.	[redacted]
Warrant no. (if applicable)	
Claimant's name (including ref.)	[redacted] Council Ref: [redacted]
Defendant's name (including ref.)	[redacted]
Date	30 September 2013

1. What is your name or, if you are a solicitor, the name of your firm?

[redacted] Borough Council

2. Are you a Claimant Defendant Legal Representative
 Other (please specify) [redacted]

If you are a solicitor whom do you represent?

[redacted]

3. What order are you asking the court to make and why?

1) to fix a date for possession pursuant to paragraph 2 of the postponed possession order made by District Judge [redacted] on the 13th August 2008, in respect of the Defendants tenancy at [redacted], because the tenant has defaulted and failed to comply with the terms of the said Order which required the Defendant to pay current rent together with instalments of £[redacted] per fortnight towards her arrears and court costs in the sum of £[redacted].

2) alternatively, if no possession date is fixed, to vary the Order to a Suspended Possession Order on terms.

4. Have you attached a draft of the order you are applying for? Yes No

5. How do you want to have this application dealt with?
 at a hearing without a hearing
 at a telephone hearing

6. How long do you think the hearing will last?
 Is this time estimate agreed by all parties?
 Hours Minutes
 Yes No

7. Give details of any fixed trial date or period
 [redacted]

8. What level of Judge does your hearing need?
 District
 [redacted]

9. Who should be served with this application?
 [redacted]

10. What information will you be relying on, in support of your application?

- the attached witness statement
- the statement of case
- the evidence set out in the box below

If necessary, please continue on a separate sheet.

The Defendant first breached the order in early 2009 and has been making sporadic payments throughout her account that have not been consistent with the courts order. Both the Defendant and her partner have had financial difficulties and have been informed by the Housing team whenever payments have been missed or agreements have not been kept to.

The Defendants current rent liability is £[redacted] plus £[redacted] per fortnight off the arrears and costs. The Defendant is in receipt of housing benefit of £[redacted] per week giving rise to a shortfall of £[redacted]. The arrears are increasing again and as at the date of this application are £[redacted]. A copy of the rent statement from 11 August 2008 to date is attached marked 'Appendix 1'.

The Defendant has been sent a letter on 23 August 2013, informing her of her failure to comply with the Order of the 13 August 2008 and informing her of the Claimant's intention to apply for the date of possession to be set. A copy of this letter is attached to this Application marked 'Appendix 2'. The defendant has made no response to this letter.

Statement of [redacted]

~~(I believe)~~ (The a [redacted] stated in this section (and any continuation sheets) are true.

Signed [redacted] Dated 30 September 2013
Applicant's Legal Representative's (s litigation friend)

Full name [redacted]

Name of applicant's legal representative's firm [redacted]

Position or office held Director of Governance and Recreation
(if signing on behalf of firm or company)

11. Signature and

Signed [redacted] Dated 30 September 2013
Applicant's Legal Representative's (s litigation friend)

Position or office held Director of Governance and Recreation
(if signing on behalf of firm or company)

Applicant's address to which documents about this application should be sent

[redacted]
[redacted]
[redacted]
[redacted]

Postcode [redacted] [redacted]

If applicable	
Phone no.	[redacted]
Fax no.	[redacted]
DX no.	[redacted]
Ref no.	[redacted]

E-mail address [redacted]

[REDACTED]

Property Address:

[REDACTED]

Account Number : [REDACTED]
 Account Type : Rent Account
 Transactions From : 11-AUG-2008
 To : 30-SEP-2013
 Printed on : 30-SEP-2013

Date	Transaction	Debit	Credit	Balance
	Balance At 10-AUG-2008 is			731.30 DR
19-NOV-2012	STANDARD DEBIT			
26-NOV-2012	STANDARD DEBIT	81.04		
03-DEC-2012	STANDARD DEBIT	81.04		2209.25 DR
07-DEC-2012	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	81.04		2290.29 DR
10-DEC-2012	STANDARD DEBIT		100.00	2371.33 DR
31-DEC-2012	STANDARD DEBIT	81.04		2271.33 DR
03-JAN-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	81.04		2352.37 DR
07-JAN-2013	STANDARD DEBIT		140.00	2433.41 DR
08-JAN-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	81.04		2293.41 DR
14-JAN-2013	STANDARD DEBIT		140.00	2374.45 DR
16-JAN-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	81.04		2234.45 DR
21-JAN-2013	STANDARD DEBIT		140.00	2315.49 DR
28-JAN-2013	STANDARD DEBIT	81.04		2175.49 DR
30-JAN-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	81.04		2256.53 DR
04-FEB-2013	STANDARD DEBIT		200.00	2337.57 DR
11-FEB-2013	STANDARD DEBIT	81.04		2137.57 DR
18-FEB-2013	STANDARD DEBIT	81.04		
25-FEB-2013	STANDARD DEBIT	81.04		2218.61 DR
28-FEB-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	81.04		2299.65 DR
04-MAR-2013	STANDARD DEBIT		150.00	2380.69 DR
11-MAR-2013	STANDARD DEBIT	81.04		2461.73 DR
18-MAR-2013	STANDARD DEBIT	81.04		2311.73 DR
25-MAR-2013	STANDARD DEBIT	81.04		
01-APR-2013	STANDARD DEBIT	81.04		2392.77 DR
08-APR-2013	STANDARD DEBIT	85.73		2473.81 DR
15-APR-2013	STANDARD DEBIT	85.73		2554.85 DR
22-APR-2013	STANDARD DEBIT	85.73		2635.89 DR
26-APR-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	85.73		2721.62 DR
29-APR-2013	STANDARD DEBIT		380.00	2807.35 DR
06-MAY-2013	STANDARD DEBIT	85.73		2893.08 DR
13-MAY-2013	STANDARD DEBIT	85.73		2978.81 DR
20-MAY-2013	STANDARD DEBIT	85.73		2598.81 DR
23-MAY-2013	PAYMENT RECEIVED FROM THE ACCOUNT HOLDER	85.73		
27-MAY-2013	STANDARD DEBIT		380.00	2684.54 DR
03-JUN-2013	STANDARD DEBIT	85.73		2770.27 DR
		85.73		2856.00 DR
				2941.73 DR
				2561.73 DR
				2647.46 DR
				2733.19 DR