

## Insights

# ASSET MANAGEMENT IN ENGLAND AND WALES: USING A COURT CLAIM TO RECOVER RENT ARREARS FOR BUSINESS PREMISES

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## How can a court claim help a landlord get the rent paid ?

A court claim can be an effective way to claim rent arrears from a tenant of business premises.

Suing the tenant for arrears of rent is not the most aggressive way to chase payment. But it is an option, especially if the more aggressive options are not suitable or available.

## Issuing the claim

Before a claim is issued, the landlord must write to the tenant demanding payment. It is unusual for the tenant to have any legal grounds to dispute the rent itself. So, if the tenant doesn't pay and the arrears are less than £100,000, the landlord should consider using Money Claims Online (**MCOL**) to make a claim against the tenant to recover the arrears.

Claims exceeding £100,000 must be submitted in paper form to the County Court Money Claims Centre for issue.

## Court fees

There are set court fees for claims up to £10,000, depending on the value of the claim, and there is a 0.5% discount if you submit your claim online (using MCOL) rather than in paper form.

For claims between £10,000 and £100,000 the court fee is 4.5% of the value of the claim for claims submitted online, or 5% if you submit your claim in paper form.

The fee for claims exceeding £200,000 in value is capped at £10,000.

The fee will be added to the judgment debt.

## Judgment

If the tenant does not defend the claim, the landlord can enter judgment. If the tenant does give notice that it intends to defend, the landlord can usually seek early or summary judgment because there is no defence to the claim.

*What use is a judgment to the landlord ? How much leverage does it give?*

A court judgment may:

- be an embarrassment or a regulatory concern if the tenant is a professional licensed to practice by a professional body;
- put the tenant in breach of its banking arrangements on the grounds of material financial indebtedness and non-compliance with settlement requirements;
- concern underwriters quoting for insurance cover ( business interruption, premises cover) leading to higher premiums

Those are all good reasons why the threat of a court claim or the commencement of the process might lead the tenant to pay up.

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This insight was originally authored by Roger Cohen.

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## MEET THE TEAM



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