
STATUTORY INSTRUMENTS

1981 No. 1687

The County Court Rules 1981

ORDER 24

SUMMARY PROCEEDINGS FOR THE RECOVERY OF LAND OR RENT

PART I

LAND

Proceedings to be by originating application

1. Where a person claims possession of land which he alleges is occupied solely by a person or persons (not being a tenant or tenants holding over after the termination of the tenancy) who entered into or remained in occupation without his licence or consent or that of any predecessor in title of his, the proceedings may be brought by originating application in accordance with the provisions of this Order.

Affidavit in support

2. The applicant shall file in support of the originating application an affidavit stating—
- (a) his interest in the land;
 - (b) the circumstances in which the land has been occupied without licence or consent and in which his claim to possession arises; and
 - (c) that he does not know the name of any person occupying the land who is not named in the originating application.

Service of originating application

3.—(1) Where any person in occupation of the land is named in the originating application, the application shall be served on him—

- (a) by delivering to him personally a copy of the originating application, together with the notice of the return day required by Order 3, rule 4(4)(b), and a copy of the affidavit in support, or
- (b) by an officer of the court leaving the documents mentioned in sub-paragraph (a), or sending them to him, at the premises, or
- (c) in accordance with Order 7, rule 11, as applied to originating applications by Order 3, rule 4(6), or
- (d) in such other manner as the court may direct.

(2) The originating application shall, in addition to being served on the named respondents (if any) in accordance with paragraph (1), be served, unless the court otherwise directs, by—

- (a) affixing a copy of each of the documents mentioned in paragraph (1)(a) to the main door or other conspicuous part of the premises, and

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- (b) if practicable, inserting through the letterbox at the premises a copy of those documents enclosed in a sealed envelope addressed to “the occupiers.”

Application by occupier to be made a party

4. Without prejudice to Order 15, rule 1, any person not named as a respondent who is in occupation of the land and wishes to be heard on the question whether an order for possession should be made may apply at any stage of the proceedings to be joined as respondent, and the notice of the return day required by Order 3, rule 4(4)(b), shall contain a notice to that effect.

Hearing of originating application

5.—(1) Except in case of urgency and by leave of the court, the day fixed for the hearing of the originating application shall not be less than 5 days after the day of service.

(2) Notwithstanding anything in Order 21, rule 5, no order for possession shall be made on the originating application except by the judge or, with the leave of the judge, by the registrar.

(3) An order for possession in proceedings under this Order shall be to the effect that the plaintiff do recover possession of the land mentioned in the originating application.

(4) Nothing in this Order shall prevent the court from ordering possession to be given on a specified date, in the exercise of any power which could have been exercised if the proceedings had been brought by action.

Warrant of possession

6.—(1) Subject to paragraph (2), a warrant of possession to enforce an order for possession under this Order may be issued at any time after the making of the order and subject to the provisions of Order 26, rule 17, a warrant of restitution may be issued in aid of the warrant of possession.

(2) No warrant of possession shall be issued after the expiry of 3 months from the date of the order without the leave of the court, and an application for such leave may be made ex parte unless the court otherwise directs.

Setting aside order

7. The judge may, on such terms as he thinks just, set aside or vary any order made in proceedings under this Order.

Part II

RENT

Claim for arrears of rent by rent action

8. Where a landlord claims arrears of rent from a tenant or former tenant of his who is still in occupation of the land to which the claim relates, the claim may be brought by action (in these rules referred to as a “rent action”) in accordance with the provisions of this Part of this Order and, subject to those provisions, these rules shall apply with the necessary modifications to a rent action as they apply to a fixed date action.

Venue

9. A rent action shall be brought in the court for the district in which the land is situated and the request for the issue of the summons shall contain a statement that the plaintiff requires a summons under this Part of this Order.

Form of summons and service

10. The summons with a copy of the particulars of claim attached shall be served on the defendant in accordance with Order 7, rule 1, not less than 7 days before the return day.

Certain rules not to apply

11.—(1) Order 3, rule 3(2)(c) and (3), Order 9 and Order 11 (except rules 1 and 4(2) thereof) shall not apply to a rent action.

(2) Nothing in paragraph (1) of this rule shall prejudice the exercise by the court of its power to give directions under Order 13, rule 2, and the court may at any time direct that the proceedings shall continue as an ordinary action.