THE LETTINGS HUB

Infosheet | A Guide To Imprisoned Tenants



Most letting agents will never have to deal with a situation where their tenant suddenly disappears because they've been sent to prison. It's rare, but when it does happen, it can leave everyone involved feeling confused and unsure of what to do next.

1 | Can you end the tenancy?

2 | Who pays the rent?

3 | What are the risks if you take action too soon?

One wrong move could turn a stressful situation into a costly legal battle. In fact, acting too quickly, like changing the locks, could amount to unlawful eviction, which is a criminal offence.

Bringing the issue to life, our legal partners, Woodstock Legal Services shared the story of a real-life landlord, Mr P (name changed), who faced this exact problem. His experience highlights the practical steps you and your landlords need to take to stay on the right side of the law.



The Background

Mr P owned a two-bedroom flat in Birmingham, which he let under an Assured Shorthold Tenancy (AST). For over a year, everything ran smoothly: rent was paid on time, and there were no issues with the tenant.

Then, one month, the rent didn't arrive.

Repeated attempts to contact the tenant went unanswered. Concerned, Mr P spoke to a neighbour, and discovered the tenant had been sentenced to prison.

When Mr P visited the property, it appeared locked and unoccupied. Rent arrears were starting to build, and he needed to regain possession so he could re-let. Like many landlords, his first instinct was to treat the tenancy as "abandoned" and simply take back the property; however, had he done so, he would have made a serious mistake.

A Tenancy Doesn't End Automatically

The first and perhaps most surprising thing to know is that a prison sentence does NOT automatically end a tenancy.

Even though the tenant is physically absent, they remain the legal occupier of the property. This means:

- The rent is still legally due.
- The landlord must continue to meet their obligations, such as carrying out repairs and servicing appliances.
- Any attempt to regain possession must follow the correct legal steps.

Changing the locks or treating the property as abandoned without following the legal process could expose your landlord to significant fines and legal claims.

Try To Reach A Surrender

The quickest and simplest route to resolving this type of situation is to reach an agreement with the tenant for a surrender of the tenancy. This creates a clean break and avoids the risk of drawn-out legal disputes.

In Mr P's case, Woodstock Legal Services advised trying to open communication with the tenant. Because the tenant was in prison, a Section 8 notice was served at his last known address, the flat itself - which is the legally correct method. A copy was also sent to the prison to make sure the tenant was aware of the notice and potential court proceedings.

During this time, the tenant's mother contacted Woodstock. She was understandably concerned that the rent arrears would continue to grow and that her son would end up with a money judgment for the debt. With her help, they obtained signed authority from the tenant to surrender the tenancy, giving Mr P the ability to take back the property legally.



> ***Communication between all parties is incredibly important. It can avoid the need for further court proceedings and prevent the outstanding debt from spiralling out of control.***
>
> **Woodstock Legal Services**

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THE LEGAL ROUTE IF SURRENDER ISN'T POSSIBLE

Unfortunately, not all cases are as straightforward as Mr P's. If the tenant, or someone acting with their authority, refuses to surrender, the landlord must go through the full legal possession process.

The correct steps are:

1. **ISSUE THE APPROPRIATE NOTICE**
   - Section 8 notice on breach grounds, such as rent arrears (two months or more).
   - Section 21 notice, whilst it is still available, as a "no-fault" route.
2. **SERVE THE NOTICE CORRECTLY**
   Notices must be served at the tenant's last known address, which would be the rented property, and also sent to the prison address to ensure proper service.
3. **APPLY TO COURT FOR A POSSESSION ORDER**
   If the tenant doesn't leave after the notice period, a claim must be made through the courts.
4. **ENFORCE WITH BAILIFFS**
   If the tenant still refuses to leave after the possession order, bailiffs will need to be instructed.

This process can take time and comes with costs attached, which is why a voluntary surrender is always preferable if it can be achieved.

The Outcome For Mr P

Thanks to the tenant's mother stepping in and signing the necessary paperwork, Mr P was able to lawfully regain possession without going to court.

The property was then re-let to a new tenant, ensuring the rental income started flowing again quickly.

- The deposit was used to cover part of the outstanding rent arrears.
- The tenant's mother cleared the remaining arrears in full.
- If she hadn't, Mr P would have been able to issue debt recovery proceedings to apply for a money judgment against the tenant.

By following Woodstock's advice, Mr P avoided the serious risk of an unlawful eviction claim, which could have cost far more than the original rent arrears.

Receiving Rent While A Tenant Is In Prison

Sometimes, landlords may still receive rent payments even when a tenant has a custodial sentence. If the tenant receives Universal Credit or Housing Benefit, these payments could continue for up to 13 weeks. However, this isn't guaranteed, and once payments stop, arrears can quickly start to build.

If rent does stop coming in, it's vital to keep accurate records of missed payments and take timely action to regain possession through the correct legal process.



Lessons For Agents

This case highlights some essential principles every letting agent should understand:

- A tenancy does not end automatically when a tenant goes to prison.
- Always attempt to negotiate a surrender first – it would be faster.
- Notices must be served correctly, including to the prison address.
- Court proceedings are unavoidable if the tenant does not surrender.
- Never change locks or treat the property as abandoned without a possession order.

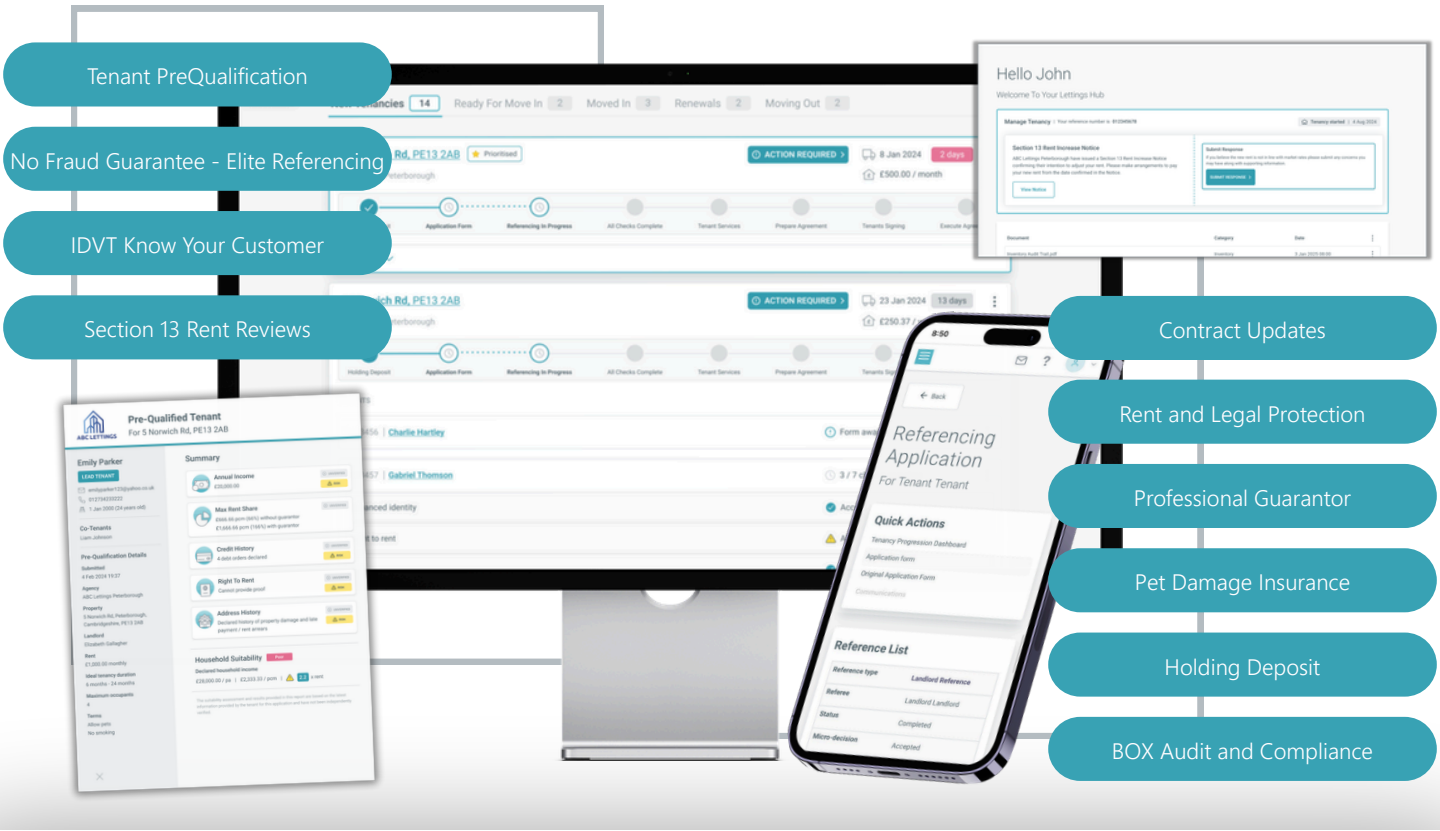
Mr Ps case had a positive outcome because he sought professional advice and followed the rules carefully. Without that guidance, he could have faced:

- A costly unlawful eviction claim.
- Months of lost rental income while waiting for court proceedings.
- Ongoing arrears and no legal route to recover the debt.

Agents and landlords avoid should be aware that when faced with unusual and stressful situations, communication and legal compliance are key.

BOX

YOUR COMPLETE TENANCY MANAGEMENT PLATFORM



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At The Lettings Hub, we're always here to support you through the ever-changing lettings landscape. With the Renters' Rights Bill introducing new regulations, staying updated is crucial. That's why we offer a variety of resources to help you navigate these changes smoothly. From webinars and blogs to tailored guides, our platform is packed with expert insights.

Be sure to follow us on LinkedIn and bookmark our Renters' Rights Hub for the latest updates, tips, and advice.

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