



## Warrant for Distress for Rent

### What is Distress?

Distress for Commercial Rent is a common law remedy and is one of the main weapons that a landlord can do to recover rent payable quickly and easily without further cost on themselves.

The right to distress upon goods found upon their demised premises can be executed irrespective of any third parties goods as some third parties owner have limited rights of after the event granted by Law of Distress Amendment Act 1908. It is an automatic right when the tenant defaults in arrears.

When the goods areas seized the goods are put into the custody of the law and the owner has limited rights over his former property. When the goods are removed they will be sold at public auction after 5 days. Costs are recovered from the defaulting tenant first before the arrears and any remaining balance is paid to the landlord.

This remedy is only applicable to commercial premises and not residential by virtue s.147 Rent Act 1977. It was previously allowed in ancient times but it has now been abolished.

This remedy has also been subjected to scrutiny under human rights in the case of Lesley Fuller v (1) Happy Shopper Markets Limited (2) Nurdin & Peacock plc [2001] 1 WLR 1681 but with the assurance that it is still legal to distraint upon goods it can be inferred that it is compatible with human rights. This remedy is not just applicable to rent but also the charges as seen in Dodds v Thomson [1866] 1 CP 133.

### The Procedure

This consists of a inventory of goods where the bailiff will have the choice to impound them on the premises with a walking possession known as a open possession so the debtor can still use the goods and can pay the debt off by way of instalments *See* Black v Coleman (1878) 29 CP 507. Or the bailiff may enter into a close possession where he remains with the goods on site till the debt is paid Or to remove them immediately to sell at auction. This is rare and it is cost effective to arrange by instalments as the creditor has the security for the debt and it will constitute theft if the goods are removed otherwise known as pound breach.

Distress for Rent can cause the debtor to pay in full immediately as apposed to wait for the court date. Should you wish to know more feel free to contact us.