

**LANDLORD AND TENANT (DISTRESS FOR RENT)
ACT**

Principal Act

Act. No. 1909-08

Commencement 30.7.1909

Assent 30.7.1909

Amending
enactments

Relevant current
provisions

Commencement
date

None

English source

Law of Distress Amendment Act 1908 (8 Edw. 7 c.53)

ARRANGEMENT OF SECTIONS.

Section

1. Short title.
2. Interpretation.
3. Under tenant or lodger, if distress levied, to make declaration that immediate tenant has no property in goods distrained.
4. Penalty.
5. Payments by under tenant or lodger to superior landlord.
6. Exclusion of certain goods.
7. Exclusion of certain under tenants.
8. Demand for rent from under tenant.

AN ACT TO AMEND THE LAW AS REGARDS A LANDLORD'S RIGHT OF DISTRESS FOR RENT.

Short title.

1. This Act may be cited as the Landlord and Tenant (Distress for Rent) Act. *(1908 c. 53, s. 9)*

Interpretation.

2. In this Act—

“superior landlord” shall be deemed to include a landlord in cases where the goods seized are not those of an under tenant or lodger; and

“tenant” and “under tenant” do not include a lodger.

Under tenant or lodger, if distress levied, to make declaration that immediate tenant has no property in goods distrained.

3. If any superior landlord levies, or authorizes to be levied, a distress on any furniture, goods or chattels of— *(s. 1)*

- (a) any under tenant liable to pay by equal instalments not less often than every actual or customary quarter of a year a rent which would return in any whole year the full annual value of the premises or of such part thereof as is comprised in the under tenancy; or
- (b) any lodger; or
- (c) any other person whatsoever not being a tenant of the premises or of any part thereof, and not having any beneficial interest in any tenancy of the premises or of any part thereof,

for arrears of rent due to such superior landlord by his immediate tenant, such under tenant, lodger or other person may serve such superior landlord, or the bailiff or other agent employed by him to levy such distress, with a declaration in writing made by such under tenant, lodger or other person, setting forth that such immediate tenant has no right of property or beneficial interest in the furniture, goods or chattels so distrained or threatened to be distrained upon, and that such furniture, goods or chattels are the property or on the lawful possession of such under tenant, lodger or other person, and are not goods to which this Act is expressed not to apply; and also, in the case of an under tenant or lodger, setting forth the amount of

rent, if any, then due to his immediate landlord, and the times at which future instalments of rent will become due, and the amount thereof, and containing an undertaking to pay to the superior landlord any rent so due or to become due to his immediate landlord, until the arrears of rent in respect of which the distress was levied or authorized to be levied have been paid off, and to such declaration shall be annexed a correct inventory, subscribed by the under tenant, lodger or other person, of the furniture, goods and chattels referred to in the declaration.

Penalty.

(s. 2)

4. If after being served with such declaration and inventory, and in the case of an under tenant or lodger after such undertaking as aforesaid has been given, and the amount of rent, if any, then due has been paid or tendered in accordance with that undertaking, any superior landlord, or any bailiff or other agent employed by him, levies or proceeds with a distress on the furniture, goods or chattels of the under tenant, lodger or other person such superior landlord, bailiff or other agent shall be deemed guilty of an illegal distress, and the under tenant, lodger or other person may apply to a justice of the peace for an order for the restoration to him of such goods and such application shall be heard before the magistrates' court and the court shall inquire into the truth of such declaration and inventory, and shall make such order for the recovery of the goods or otherwise as to it may seem just and the superior landlord shall also be liable to an action at law at the suit of the under tenant, lodger or other person, in which action the truth of the declaration and inventory may likewise be inquired into.

(s. 4)

Payments by under tenant or lodger to superior landlord.

(s. 3)

5. For the purposes of the recovery of any sums payable by an under tenant or lodger to a superior landlord under such an undertaking as aforesaid, or under a notice served in accordance with section 8, the under tenant or lodger shall be deemed to be the immediate tenant of the superior landlord, and the sums payable shall be deemed to be rent; but, where the under tenant or lodger has, in pursuance of any such undertaking or notice as aforesaid, paid any sums to the superior landlord, he may deduct the amount thereof from any rent due or which may become due from him to his immediate landlord, and any person, other than the tenant for whose rent the distress is levied or authorized to be levied, from whose rent a deduction has been made in respect of such a payment may make the like deductions from any rent due or which may become due from him to his immediate landlord.

Exclusion of certain goods.

6. (1) This Act shall not apply—

- (a) to goods belonging to the husband or wife of the tenant whose rent is in arrear, nor to goods comprised in any bill of sale,

hire-purchase agreement, or settlement made by such tenant, nor to goods in the possession, order or disposition of such tenant by the consent and permission of the true owner under such circumstances that such tenant is the reputed owner thereof;

- (b) to goods of a partner of the immediate tenant ;
- (c) to goods, not being goods of a lodger, upon premises where any trade or business is carried on in which both the immediate tenant and the under tenant have an interest;
- (d) to goods, not being goods of a lodger, on premises used as offices or warehouses where the owner of the goods neglects for one calendar month after notice (which shall be given in like manner as a notice to quit) to remove the goods and vacate the premises; (s. 6)
- (e) to goods belonging to and in the offices of any company or corporation on premises the immediate tenant whereof is a director or officer, or in the employment of such company or corporation:

(2) It shall be competent for the magistrates' court upon application by the superior landlord or any under tenant or other such person as aforesaid, upon hearing the parties, to determine whether any goods are in fact goods covered by paragraph (b), (c), (d) or (e).

Exclusion of certain under tenants.

(s. 5)

7. This Act shall not apply to any under tenant where the under tenancy has been created in breach of any covenant or agreement in writing between the landlord and his immediate tenant, or where the under tenancy has been created under a lease existing at the date of the passing of this Act contrary to the wish of the landlord in that behalf, expressed in writing and delivered at the premises within a reasonable time after the circumstances have come, or with due diligence would have come, to his knowledge.

Demand for rent from under tenant.

8. In cases where the rent of the immediate tenant of the superior landlord is in arrear it shall be lawful for such superior landlord to serve upon any under tenant or lodger a notice, by registered post addressed to such under tenant or lodger upon the premises, stating the amount of such arrears of rent, and requiring all future payments of rent, whether the same has already accrued due or not, by such under tenant or lodger to be made direct to the superior landlord giving such notice, until such arrears shall have been duly

1909-08

Landlord and Tenant (Distress for Rent)

paid, and such notice shall operate to transfer to the superior landlord the right to recover, receive and give a discharge for such rent.