

**IN THE COUNTY COURT AT YARMOUTH
BETWEEN**

CLAIM NO: 3PB34567

YARMOUTH DISTRICT COUNCIL

Claimant

-and-

MR KEITH BUTTERWORTH

Defendant

ADDITIONAL DEFENCE FORM AND COUNTERCLAIM

1. This Additional Defence Form and Counterclaim is in addition to the Defence Form filed by the Defendant.
2. I am the Defendant in these proceedings and I admit that I live in a flat at 3 Field Street, Yarmouth, NR30 1BL, on my own under a secure tenancy. I have lived at the address for 2 years. I deny everything in the claim unless I admit it in this Defence and the Claimant is put to proof. I deny that the Claimant is entitled to end that tenancy and possession of the property as claimed.
3. I admit that I was given a notice seeking possession by the Claimant as said in the Particulars of Claim.
4. I admit that I have fallen behind with my rent but I am unable to say exactly how much I owes. The Claimant is put to strict proof as to how much the rent arrears are. Alternatively, I say that in any event I am able to set off against the rent the sums Counterclaimed below.
5. I deny that in all the circumstances it would be reasonable for a possession order to be made under the Housing Act 1985. In particular I say:
 - a. My rent debt started because my employer changed the way I was paid from weekly to monthly and reduced my hours in January to February 2018.
 - b. I did offer to make payments towards the debt in March 2018.
 - c. I now have regular work hours and am able to afford the rent.
 - d. The Claimant has discriminated against me (see below).
 - e. The Claimant failed to comply with its public sector equality duty (see below).
 - f. I am disabled with the meaning of s.6 of Equality Act 2010.
6. The Claimant is the owner and landlord of 3 Field Street.

7. I have a disability under s.6 Equality Act 2010 because I have a learning disability, namely severe dyslexia. My dyslexia is a mental impairment that has a substantial and long-term adverse effect on my ability to carry out normal day-to-day activities.
8. I defend the eviction under Part 4 of the Equality Act 2010. The Claimant has discriminated against me under s.35 in its decision to evict me. In particular, the Claimant has indirectly discriminated against me under s.19 Equality Act 2010, discriminated against me in connection with my disability under s.15 Equality Act 2010 and failed to make reasonable adjustments under s.21 Equality Act 2010.

PARTICULARS OF INDIRECT DISCRIMINATION

9. The Claimant as a landlord manages the flat, indirectly discriminated against me for the following reasons:
 - a. In or around January 2018 I admit that I did start failing to pay some rent because my employer changed the way I was paid.
 - b. In March 2018, I offered to pay the Claimant £50 extra per month to clear the rent debt.
 - c. On 21 March 2018, the Claimant refused to accept the offer because I had not followed the correct process for those who owe money.
 - d. The Claimant have a rule (provision, criterion or practice) that all tenants with rent debts must fill in an online statement that gives details about all their finances before they can set up a repayment plan.
 - e. I have suffered with severe dyslexia all my life and find it difficult to read and understand things. I was not able to understand and fill in the complicated statement.
 - f. The Claimant's rule to fill in an online statement discriminates against people who have a disability like severe dyslexia because they have difficulty reading and writing. This puts them at a particular disadvantage compared to people without severe dyslexia because they cannot fill in the form.
 - g. As I was unable to start repaying the rent debt, my debt increased which led to the Claimant deciding to evict me.

PARTICULARS OF DISCRIMINATION ARISING FROM A DISABILITY

10. The Claimant as a landlord manages the flat, discriminated against me because of my disability for the following reasons:
 - a. In or around January 2018 I admit that I did stop paying the rent because my employer changed the way I was paid.
 - b. The Claimant knew about the my disability because they helped me fill in the forms when I first became a tenant two years ago.
 - c. I told the Claimant that I could start to make payments but they refused my offer because I hadn't filled the online form in.
 - d. I asked for help to fill the form in or not to have to fill the form in at all but this was refused.
 - e. The Claimant has decided to evict me because of something arising from my disability. My rent debt has increased because the Claimant did not allow me

to start repayments as I could not fill in the online statement due to my severe dyslexia.

PARTICULARS OF THE FAILURE TO MAKE REASONABLE ADJUSTMENTS

11. The Claimant as a landlord is a controller of let premises under s.36 Equality Act 2010 and has a duty to make reasonable adjustments under s.20 of Equality Act 2010.
12. My landlord has failed to make reasonable adjustments and has discriminated against me as follows:
 - a. My landlord has a rule (provision, criterion or practice) requiring people in rent arrears to complete an online income and expenditure form before they will accept a payment plan.
 - b. This provision, criterion or practice puts a disabled people at a substantial disadvantage in comparison with persons who are not disabled because people with learning difficulties like me struggle to complete forms.
 - c. They should take such steps as it is reasonable to have to take to avoid the disadvantage.
 - d. In or around January 2018 I got into rent arrears due to changes in my employment hours
 - e. In or around March 2018 I offered the Claimant to start paying my rent arrears off by instalments.
 - f. On 21 March 2018, the Claimant refused to accept the offer because I had not completed the only form.
 - g. I asked for help to fill the form in or not to have to fill the form in at all but this was refused. The Claimant told me that I'd need to fill the form in so that they could see that I could afford the payments and if not they couldn't accept my payment offer.
 - h. I have suffered with severe dyslexia all my life and find it difficult to read and understand things. I was not able to understand and fill in the complicated statement.
 - i. The Claimant knew about my disability because they helped me fill in the forms when I first became a tenant two years ago.
 - j. The Claimant's rule to fill in an online statement discriminates against people who have a disability like severe dyslexia because they have difficulty reading and writing. This puts them at a substantial disadvantage compared to people without severe dyslexia because they cannot fill in the form.
 - k. As I was unable to start repaying the rent debt, my debt increased which led to the Claimant deciding to evict me.

PARTICULARS OF BREACH OF PUBLIC SECTOR EQUALITY DUTY

13. The Claimant is a public authority for the purposes of the Equality Act 2010. As a public body, it is under a duty to take steps to take account of disabled persons' disabilities under s.149 of the Equality Act 2010. The Claimant has failed to pay due regard to the need to eliminate unlawful discrimination. The Claimant has failed to comply with its public sector

equality duty by failing to have due regard to my disability when deciding whether to evict me.

COUNTERCLAIM

14. I repeat paragraphs 1 to 13 above.

15. Due to the Claimant's actions, I have suffered loss, damage, distress, discomfort and inconvenience. I claim for injury to feelings under s.119 Equality Act 2010.

PARTICULARS OF GENERAL DAMAGE

- (a) I have been caused distress about being evicted especially as I would have nowhere else to go if I lost my home.
- (b) I have been embarrassed by the Claimant's actions and having to explain I have difficulties with reading and writing.

16. I counterclaim for:

- (1) Damages limited to £5000.
- (2) An Order saying that the Claimant has discriminated against me.
- (3) An Order to say the Claimant must accept repayment from me without having to fill in the online form.
- (4) Interests that the Court think appropriate.
- (5) Costs.

Dated: 23 October 2018

Statement of Truth

I believe that the facts stated in this Defence and Part 20 Counterclaim are true.

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KEITH BUTTERWORTH

To the Court Manager and to the Claimant

