

What happens if, following divorce, your ex won't collect their things?



On divorce, you and your spouse will need to reach agreement about how you split your personal possessions. This can be difficult if you both want the same things, but another difficulty can arise if you stay in the family home and your spouse fails to collect their possessions.

In a case which was recently reported in the legal press, the wife was awarded the former matrimonial home but the husband, who had been operating a plant hire business from the house, left his rusty old machinery on the land. The wife repeatedly asked him to come and collect the machinery but he was uncooperative so after a 2 year wait, she had them taken away as scrap. A further 7 years later her ex-husband decided to sue her, arguing that the machinery was worth £170,000. What followed was a lengthy court battle during which she racked up legal costs of £108,000. Why? Because she had become an 'involuntary bailee'.

What is an involuntary bailee?

An involuntary bailee is a person who has, without their consent, ended up in possession of somebody else's belongings. The owner retains the rights to the goods but the bailee owes certain duties.

What duties?

An involuntary bailee must "do what is right and reasonable." If you find yourself in this position, you must not deliberately or recklessly damage or destroy the goods and if you try to return them via a third party, you must ensure that the third party has your ex's authority to receive the goods.



But if my ex has abandoned the goods, do they not now belong to me?

If the goods have truly been abandoned then they may do, but the difficulty is in establishing that they have actually been abandoned.

Can I charge for storage costs?

The law is unclear in this area. In certain circumstances, a bailee might be able to recover costs incurred safeguarding the goods from deterioration, but the scope of that ability is uncertain and you should consider how likely it is that your ex will pay.

How can I get rid of the goods?

You can serve a statutory notice on your ex to come and collect the goods. If the notice is correctly served and he or she fails to get in touch, then you can assume that the goods have been abandoned and may dispose of them. Do make sure that you retain evidence of all steps that you take so that you can defend a future claim.

The wife in the above case was ultimately successful in defending her ex-husband's claim against her and he was ordered to pay her legal costs, but had she served a notice on him before disposing of the machinery, she could have avoided the stress of further litigation.

If you need assistance in serving a notice, or with any aspect of your divorce and financial remedy proceedings, please feel free to [contact a member of our family law team](#).