

BREAKING A LEASE



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Breaking A Rental Lease



Even the most fastidious tenant might at some point have to break a long-term lease because of a job transfer, a health problem, or eloping to Ethiopia. If you have any suspicion that you might have to move out before your lease term is up, the best way to head off problems is to tailor your rental search accordingly. Even if you're midway through your term, these tips will help you through the process of an early break up with your rental.

Look before you lease

While you're perusing that crisp new lease, on the verge of committing yourself to a yearlong rental, hold that teetering pen a minute. If the term of your lease seems dicey for any reason, consider a shorter-term rental or a month-to-month contract. You'll sacrifice some security—rents can rise between renewals, or your landlord may decide not to renew—but the bucket of money you'll save versus breaking a long-term lease is worth the price of some nail-chewing, or even a slightly higher rent. (This type of agreement is also riskier for landlords, since it costs them extra time, energy, and money to fill more frequent vacancies.)

Another solution may be to rent from an individual rather than a corporation. Despite their best intentions, managers of rental complexes often have less flexibility to negotiate when a tenant has to vacate before the lease is up.

As with most contracts, lease guidelines vary by state. Members of the military, for example, can in some states, under some conditions; legally "break" a lease without repercussions, but even this isn't a universal truth. Find out what your rights and options are. State guidelines are easy to find on the Web.

Negotiating an Early-Release Clause

Any lease agreement worth the price of admission will spell out your and your landlord's obligations if one of you breaks a lease term. But even if you hope to stay in your rental until death do you part, it's smart to add an "**early-release clause**" in case an emergency arises.

Most early-release clauses state that in case of early departure, the tenant owes one or two months of extra rent or will be responsible for payments until a new tenant is found whichever happens first. The tenant's security deposit may also be forfeited, if allowed by the state. This may sound painful, but keep in mind that we're talking about breaking a legally binding contract, and try to be humble.

In most states, landlords aren't required to negotiate terms not covered in the original lease or subsequent written amendments. This gives you extra reason to be polite and reasonable during lease negotiations. If a problem does occur in the future, your landlord will know that your heart is in the right place.

Running on Empty

Suppose you signed a boilerplate lease with no early-release clause, and you've been in your new place for three months. Suddenly you have a job offer you can't refuse, but it's in Boston and you're in Phoenix; or you take a sudden, fatal hit on your income and can't afford your monthly rent; or your apartment turns out to have mildew problems and your landlord has ignored your health complaints. Here are some **do's** and **don'ts** to help you make the best of things when you're running on empty.



Do...

- Be straight-up. If your reason for wanting to move might be fixed with a putty knife or an honest conversation, make an appointment to talk with your landlord. Don't be shy; this is your home.
- Treat your landlord with respect. Let her know as soon as possible that you might have to break your lease, so that you can discuss the possibilities and she can get started on finding a replacement. In most states, by the way, landlords are required by law to make an earnest effort to fill vacancies, even if a tenant breaks a lease.
- Ask your landlord if she is amenable to a new leaseholder or sub lessee taking over the remainder of your lease. (The new tenant would be subject to her approval, of course.) If this was disallowed in the original lease and she agrees to an amendment, be sure to put it in writing, with both of your signatures, and don't walk away without a copy. A cautionary note: If you sublet, as the primary leaseholder you will still be responsible for future rent payments, property damage, and the like if the sub lessee defaults on payments. If a new tenant becomes the leaseholder, you're out of the picture. While that might make you happier, either option is preferable to being unprotected.
- Show your landlord that you care. Offer to locate a new sub lessee or leaseholder yourself. Contact friends, family, and co workers for leads, and be willing to place—and pay for—ads.
- Be first to bring up compensations for your landlord. For the trouble your situation presents to her, using the early-release clause guidelines as a starting point.



Don't....

- Take off without notice. Think of every rental experience as being married to your credit report. If you skip out, not only do you lose the chance to build up your credit, but it can also create a deep, dark gouge in your credit report, affecting your future ability to qualify for a credit card or buy a house or car.
- "Pretend" you're still a tenant. Your landlord deserves to expect that his property is occupied, and it's almost certain that your lease states that as a condition. Believe it or

not, it's not all about money: If you vacate, the law is rarely on your side, even if you're religious about sending payments. You can be held in default, and your landlord may have legal claim to your belongings.

- Be defensive about negotiations. The point here is to accomplish three things: 1) move; 2) maintain a good landlord-tenant relationship; and 3) avoid blemishing your credit history. The quickest way to guarantee a bad ending is to come out of the wild blue threatening a lawsuit, especially since you probably wouldn't come out as the winner.

Disputes and Other Worst-Case Scenarios

If your efforts to negotiate go bust, what's the worst that could happen? You could end up being forced to stay or forced to pay, depending on the wording of your lease. If you vacate without an early-release clause, in addition to continuing responsibility for monthly rent you might have to pay for your landlord's advertising, cleaning, and other costs.

When a tenant breaks a lease, the law is almost invariably on the landlord's side, so you can be fairly sure that pursuing a solution in small claims court would add to your debt rather than come to your aid.

If you've tried negotiating and your landlord still won't give an inch, your final option may be to contact a mediator. Mediators are usually publicly funded and available free or at low cost. To find out whether one is available in your area, contact the office of your mayor or city manager and ask to talk with someone about housing disputes or landlord-tenant mediation.



If your dispute stems from your landlord not abiding by the lease terms—say, by not fixing a leaky ceiling or ignoring an environmental hazard—again, try first to iron it out with a discussion. If this ends in a standoff, for health-related issues contact your local Health Department. They'll do an inspection and, if necessary, pursue action against the landlord themselves, without your having to get involved or break your lease.

From stress to success

Moving is stressful even under the best of circumstances. That you might have to break a legal contract in order to do so adds an extra financial and emotional dimension for both you and your landlord. With this in mind, address your landlord with respect and willingness to compromise. You might both even get what you want!

References and Information Links

1. MSN Real Estate. Writer and Editor: Sally Anderson

<http://realestate.msn.com/rentals/>

2. Arizona Secretary of State: Residential Landlord & Tenant Act

<http://azsos.gov>

3. Arizona Department of Health

<http://azdhs.gov>

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