



Lease Terminations and Evictions

The legal rights and obligations associated with being a tenant and some common terms and regulations of the tenant/landlord relationship are highlighted below. If you need information about your legal rights and responsibilities as a tenant, please contact the Massachusetts Office of Consumer Affairs and Business Regulation, +1-888-283-3757.

Useful guides published by the Massachusetts Office of Consumer Affairs and Business Regulation regarding Landlord and Tenant Rights and Responsibilities are available at:

<http://www.mass.gov/ocabr/consumer-rights-and-resources/housing/tenant-and-landlord/tenant-rights.html>

<http://www.mass.gov/ocabr/consumer-rights-and-resources/housing/tenant-and-landlord/landlord-rights.html>

Termination of Rental Agreement

As a tenant you should be well informed and carefully prepared to terminate your lease or rental agreement. Termination of the rental agreement is an important consideration, one that should never be overlooked or frivolously exercised. This is especially important if you wish to protect your security deposit.

If You Have a Lease

A written lease which states that the tenancy is for a specific term (i.e. September 1, 1998 - August 31, 1999) ends automatically at the end of that term. However, many leases still require the tenant to give written notice of his or her leave so that there is no question about automatic renewal. Giving notice is customarily done even when the lease does not require it. The notice normally must be given at least thirty days prior to the day on which the rent is due.

Some written leases contain an automatic renewal clause. Be aware of these, because if you do not notify your landlord of wanting to terminate your tenancy after the current term, the lease will be extended for another

term. You must give your landlord proper notice. Notice usually must be given two or even three months in advance.

If You Do Not Have a Lease

Tenancies at will can usually be terminated by giving the landlord proper written notice, usually thirty days before the last term begins. It may be advisable to send the notice in writing a few weeks ahead of time. A second method of terminating a tenancy at will is to negotiate a termination date agreeable to both you and your landlord. This agreement may be reached at any time in the leasing relationship. Obtain this agreement in writing and make certain that all aspects of the agreement are clear. Once all parties have accepted a termination date, no further notice is necessary.

Terminating a Lease Early

Most leases run for one full year and do not correspond with the academic year. This conflict becomes an issue if you want to return home or leave the area for an extended period of time. There are some options that allow flexibility within your lease.

Subletting

When you sublet, you become a former occupant but remain the prime tenant with all of the same obligations to your landlord. The new tenants have obligations to you, not directly to your landlord. This means that if the new tenants cause damages to the unit or fail to pay the rent, your landlord can sue you. Many leased tenancies contain clauses specifying terms and conditions under which a sublet may be granted. The terms generally state that the landlord retains the right to grant written approval over subleases. Although a landlord may reserve the right to grant approval over incoming subleases, he or she may not request additional requirements of your subleases that were not placed on yourself.

Assigning

An assignment means you turn over your lease in its entirety to a new tenant. The new tenant then has the relationship with the landlord, and you, as the former, tenant have no further obligations with him or her. This option may be used if you have no intention of returning to the apartment.

Ideally, you and your landlord would sign a written agreement releasing you from all responsibilities pertaining to the during the lease period. The new tenant would eventually take over the responsibilities and obligations. However, unless there is a written agreement, your landlord may treat the assignment like a traditional sublease and hold you responsible for the original terms of the lease.

If You Can't Sublet or Assign

Competition is fierce in subletting, so many renters will be unable to sublet. The only solution may appear to be breaking the lease and moving out. However, remember that you would still be the legal tenant. If you choose this option, your landlord may sue you to cover the cost of the back rent, attorney's fees, etc. Your landlord must wait until the rent is overdue to sue, though. You cannot be sued in June for August's rent. If the landlord successfully re-rents the unit after you leave, he or she cannot sue you for lost rent, but your landlord can sue you for costs that were incurred in finding a new tenant, such as advertising.

Evictions

Evictions are not easy. No matter what your landlord or his or her attorney may say or do, you cannot be legally evicted in Massachusetts unless your landlord has gone to court and obtained an order giving him or her permission to do so.

Reasons for Evictions

If you have a lease, you may be evicted for non-payment of rent, violation of terms of the lease such as subletting without permission, or use of the premises for illegal purposes. The landlord is not required to give a tenant at will a reason for eviction. But there must be a reason, even if it is simply that your landlord has terminated your tenancy.

Avoiding Eviction Proceedings

You do not have to move out immediately after your landlord has given you notice that he or she is beginning eviction proceedings. You may only be evicted when a judge orders you evicted. It is possible to avoid continuing with eviction proceedings even after your landlord has initiated

proceedings. If this is the first time in a twelve-month period you have been evicted for non-payment of rent, you may pay any rent owed by a specified date. You may also be able to avoid court eviction procedures through mediation with your landlord. The Worcester Housing Court and the Housing Information Center provide this service to help resolve disputes.

Going to Court

If all other remedies fail and your landlord brings you to court, be prepared to defend yourself. If you do not show up for the court date, you will automatically be evicted. You should seek legal advice before going to court.

For More Information

Residential Services has materials explaining the eviction process in more detail and can suggest resources for legal advice.