



Rental Agreements or Leases

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>

Once housing has been located, you should give thorough consideration to the rental agreement because it will control the relationship between you and your landlord during occupancy. The rental agreement is the controlling document of the landlord-tenant relationship since it sets forth the rights and duties of both parties. You should consider having a parent or guardian read your lease to make sure you understand the expectations, and that there are no hidden clauses. Your parents may be required to co-sign the lease to ensure payment, if you and/or your roommates are not able to pay the rent.

Types of Tenancies

In Massachusetts there are three types of tenancies - tenants with a lease, tenants at will, and tenants at sufferance.

If you are a **tenant with a lease**, you and the landlord have agreed to a lease or contract that allows a certain length of occupancy at a set rent. In a typical residential lease, a lease will run for one year, but in general, leases may cover either a shorter or a longer period of time. Except for certain statutory requirements, such as those governing security deposits

and the State Sanitary Code, the lease governs the entire relationship between you and your landlord.

If you are a **tenant at will**, you have the landlord's consent to occupy the rental unit but do not have a lease. This type of tenancy is one in which generally no writing exists, although there have been instances where a landlord will give a tenant a written agreement which does not meet all of the formal requirements of a lease. Such a lease may specify the length of time the tenancy is to run. A tenancy at will generally runs from month to month, but it can be for a longer or shorter period of time, depending on the time span between rental payments. Unless there is something in writing, the tenancy at will is governed entirely by statute and case law. While it is easier for you to end this type of tenancy, you are in danger of having the rent raised or the tenancy terminated given only a thirty-day notice.

If you are a **tenant at sufferance**, you have remained in your unit after your lease or tenancy at will agreement has expired or was terminated, and your landlord refuses to consent to your continued occupancy. Technically you do not have a tenancy; the landlord does not agree to your possession of the unit. However, you are not a trespasser. You are still required to pay the landlord for use of the premises but are not entitled to any of the protections offered to a tenant in Massachusetts by statute. The landlord may take you to court to sue for eviction without any notice to terminate the tenancy.

The Lease

If you are signing a lease, read it carefully and understand all of its provisions.

Essential Provisions

At a minimum, a lease must contain the name, address, and phone number of the owner and any other persons responsible for the maintenance of the property. Also included should be the name, address, and phone number of the persons authorized to receive complaints and any notices of violations of the law. In addition, the lease should have the amount of rent to be paid, the day of the month on which the rent is due, and the amount of the security deposit.

Terms in the Lease

The **lease** is the original written document signed by you and your landlord. It must be delivered to you within thirty days of signing. You, the tenant, are considered the lessee and your landlord is the lessor.

Rent is the amount of money you pay each month for occupancy. Your landlord cannot require you to pay any amount exceeding the first and last months' rent. A security deposit is equal to the first month's rent plus the cost of installing a new lock and key.

Some leases contain **tax escalator clauses**. If property taxes go up, this provision provides the only way a landlord can raise rent prior to the end of the lease. The clause must state that the tenant will pay only the proportion of the increased taxes as the apartment contributes to the entirety of taxed real estate. If the landlord receives an abatement or a refund, the tenant must receive a proportionate share. Without these provisions, the tax escalator clauses are unenforceable.

A **standard fixed term lease** runs for twelve months and is renewed after it expires. A **self- extending lease** automatically renews itself if neither you nor your landlord give formal notice to end the tenancy. Be sure you are clear with which type of lease you are signing.

Objectionable Clauses

Not every clause in a rental agreement can be enforced; some are illegal. Such clauses do not negate the validity of the entire lease, but the clauses themselves are considered void and unenforceable. Objectionable clauses include:

- Penalties for late payment of rent, unless the rent is more than thirty days overdue
- Any terms giving the landlord unrestricted entry into the premises
- Waiver of the landlord's implied warranty of habitability
- Waiver of notices by statute for eviction
- Any terms giving the landlord the right to evict the tenant without resorting to judicial procedures

Negotiating a Lease

Finally, remember a lease can be negotiated. You should not sign a lease with sections that are so one-sided that they jeopardize your rights. To change a lease, cross out the section you wish to delete, initial it, and have your landlord initial it. Additional provisions should be written out, dated, and signed by you and your landlord. Make sure all changes are noted on all copies of the lease. Read the document carefully. Do not hesitate to question closely any section of the lease that puzzles you. Remember, only that which is in writing is legally binding.