

IMPORTANT INFORMATION ABOUT LEASES

Frequently, tenants wish to break or end a lease prior to its termination date. However, leases are binding contracts between the landlord(s) and the tenant(s). A lease obligates you to pay rent through the end of the lease. If you break your lease, the landlord can hold you responsible for the rent due through the remainder of the lease. While Maryland law imposes certain conditions on the contract between landlord and tenant, such as limiting late fees to 5% of a monthly rental payment, areas where the law does not impose limits are free to negotiation between the landlord and the tenant.

A landlord is required to make a reasonable effort to re-rent the apartment to limit losses. If the landlord is able to re-rent the unit, you are only responsible for the rent until the date that the new tenant moves in. A landlord with multiple vacant units, however, is under no obligation to put a new tenant into the unit you have vacated. Also, a landlord can hold you responsible for the costs of re-renting, such as advertising for a new tenant.

Some written leases have a clause that allows the tenant to cancel the lease with a certain amount of notice, and perhaps the payment of a fee, such as two months' rent. If a tenant desires to break a lease that does not have a cancellation provision, he/she should be aware that Maryland law only permits early termination of a lease because of severe conditions. Such conditions include a tenant being transferred by an employer to a location a certain number of miles away, or military personnel receiving orders for a permanent change of station (or temporary duty for more than three months). Tenants in these situations may end a lease with proper notice.

If you desire or need to break your lease, review Maryland law to ascertain whether you meet the conditions for early cancellation. Here are some frequently asked questions with regards to breaking a lease.

Q: I signed a lease in the morning. That afternoon, I asked that the lease be cancelled. The landlord refused. Doesn't the law give me time to change my mind?

A: No. The law does not give you time to change your mind. Maryland law allowing for a three-day contract cancellation period only covers the activities of door-to-door salespeople, health club memberships, and certain credit transactions.

Q: I signed a lease with my landlord, but I haven't moved in yet. The landlord has found someone who is willing to pay more rent, and has told me that I can get my money back, but that I cannot move in. Is the landlord allowed to do this?

A: No. In doing so, the landlord would be breaching his/her obligation to you under the lease. If the landlord refuses to let you into the property, you can sue for a breach of the covenant of quiet enjoyment and you can obtain damages for what you would have paid in rent under the terms of the lease.

Q: If management does not properly maintain the property, can I break the lease agreement?

A: It depends. If the property is so poorly maintained that is no longer tenable to live there, a tenant may be able to take the lease to District Court and have a judge void the lease under the Rent Escrow law (in Baltimore City, also under the Warranty of Habitability). In addition,

if a tenant vacates a property because of severely uninhabitable living conditions, the tenant may be able to sue the landlord for constructive eviction. In such a case, the court can void the lease and award the tenant money damages. The legal processes under Rent Escrow, Warranty of Habitability and Constructive Eviction laws can be somewhat complicated. It is advisable to seek assistance before proceeding – BNI, the Legal Aid Bureau (for income eligible clients), the Maryland Volunteer Lawyers Service (for income eligible clients), or a private attorney may be able to provide you with more detailed information tailored to your particular situation.

If conditions are not so severe, the normal remedy for poor maintenance is to file a complaint with your local housing inspectors, and/or to send a letter via certified mail noting the items that you want repaired. If the landlord does not comply with the violation notice or repair the property within a reasonable time, and the repairs needed are substantial, it is possible to petition your District Court for a rent escrow process. Contact BNI (410-243-6007) for further information.

Q: I am continually disturbed by noisy tenants, and the landlord refuses to remedy the situation. Is this grounds for me to break the lease?

A: If you have given your landlord notice of the problem, an opportunity to remedy the problem, and the problem still continues, these can be grounds to break the lease. In all Maryland leases, the tenant is by law entitled to the quiet enjoyment of his/her rental property. If you find yourself being disturbed by the noise of other tenants, you should contact your landlord in writing. Specify when the tenants have disturbed you and the nature of the disturbances. Give your landlord reasonable time to remedy the situation. For example, if your landlord contacts the tenants about the noise, and the tenants do not voluntarily stop disturbing you, the landlord may be obligated to send the tenants a notice to vacate for breach of the lease. Such a process can take several months, and you must give your landlord at least that much time to remedy the situation.

If a reasonable time has passed and the landlord has not remedied the situation, you may file an action in District Court for the landlord's failure to assure quiet enjoyment of the premises. As the tenant, you can decide to remain in the property and collect monetary damages, or you can petition the court to end your lease and award damages to cover your moving expenses. Such a situation carries significantly less risk than moving and then arguing constructive eviction. If, however, you do find it impossible to continue your tenancy because of conditions in your property, or because of a breach to your right to quiet enjoyment of the premises, you may move and argue that you were constructively evicted in a court of law. Contact BNI (410-243-6007) for more information and to detail your rights as a tenant.

Q: I have been transferred some distance away and it takes too long to commute. Does the law allow me to break the lease?

A: You are still bound to your lease unless the lease has a provision for early termination due to job dislocation or under special circumstances, such as if you are in the military. Some leases have specific clauses that address this issue, but many do not. For example, some leases do allow for termination of the lease if you change jobs to a location more than 50 miles away.

Q: I am in the military and have been stationed in another part of the country. May I break my lease?

A: Under Maryland law, a person on active military duty who has received a temporary duty order for a period of more than three months, or an order for a permanent change of station can end a lease by providing written notice and proof of assignment. A tenant who provides proper notice will be responsible for no more than 30 days rent and the cost of repairing any damage to the premises caused by the tenant.

Q: I am buying a house. Can I break my lease?

A: You may still be obligated for lost rent. Few tenants are able to make the ending of their lease coincide with the purchase of a house. Therefore, unless you reach an agreement with your landlord or unless there is a cancellation clause in your lease, or a clause that provides for this contingency, you will be responsible for the rent which is due for the remainder of the lease. The landlord, however, is obligated to make a good faith effort to re-rent the property after you leave, thereby mitigating your damages. If the landlord re-rents the property after you leave and before your lease term expires, you are responsible for the rent due until the time of re-rental and any costs your landlord may have sustained in having to re-rent. Those costs may include the cost of advertising, for example. It is important to note that if the new tenants do not pay their rent during the time which your lease would be in effect, you may also be responsible for this lost rent. You may thus wish to view the breaking of your lease as one of the costs incurred in buying a house.

Q: I have lost my job and simply cannot afford to stay in my apartment. What will happen to me?

A: Your landlord can hold you responsible for payments due under the lease until he/she is able to re-rent the property. In such a situation, you may well have trouble finding another apartment if your proposed new landlord checks with your current landlord. A prospective landlord may question whether you can afford to pay both the old rent and the new. Furthermore, your original landlord can sue you for lost rent, as well as for the costs of re-renting the property. A judgment against you may also be reported to a credit agency. Thus, if you are working, or when you get a job, a landlord who has a judgment against you may be able to garnish your wages. If you can no longer afford to pay the rent, you can try to negotiate a cancellation of the lease agreement with your landlord.

Q: What is the responsibility of the landlord when a lease is broken?

A: The landlord must make a reasonable effort to *mitigate his damages* by trying to rent the apartment as soon as possible. However, the landlord is not required to put your apartment ahead of other vacancies.

Q: May the landlord refuse to allow me to sublet the property?

A: A landlord does not have to allow subletting to anyone who is not qualified, but in general, a landlord cannot arbitrarily refuse to allow subletting or leasing to another qualified tenant. If a landlord does this, he/she is not *mitigating his/her damages*, which is required by law.

Q: What if I become ill and have to move to a nursing home or relative's house?

A: You are still responsible under the lease and should try to negotiate a cancellation agreement with your landlord.

Q: What if the landlord sells the property during the term of my lease?

A: The new owner takes over all the rights and responsibilities of the former owner under the lease agreement.

Q: What happens if a tenant or landlord dies?

A: Unless the lease provides otherwise, the death of a tenant or landlord does not terminate the lease and does not terminate the responsibilities of either party under the lease. The landlord's successor will continue as the landlord and the tenant's estate becomes responsible for any lost rent if the tenant's heirs end the lease.

Q: What happens when a property is foreclosed?

A: In the event of a foreclosure, the tenant loses all rights under the lease and can be required to move immediately.