

# Leases & Security Deposits

## Breaking a Lease

### What is a lease?

If you rent a room, apartment, or house, then you have a lease, even if there is nothing in writing. Any agreement to rent property, even if the only condition is how much rent to pay, is a lease. Your lease may be a detailed written document or it may be a simple spoken arrangement between you and the landlord. It may be month-to-month or it may be for a year or more. It may have many clauses or it may spell out very little. A lease is a set of obligations on both parties; the landlord's basic obligation is to provide a rental unit that is habitable, while the tenant's obligation is to pay rent. When most people refer to a "lease" they mean a written lease, commonly for a period of one year, so that is the type of lease we will discuss here.

### Can I break my lease?

You are always able to break a lease; there is little a landlord can do to actually stop you from leaving before the full term specified in the lease. You are violating no law by vacating early, but you are violating the terms of the contract between you and the landlord. If you decide to leave, the question will be what damages or penalties you might be liable for if you leave without good reason.

### What happens if I leave before my lease expires?

When you signed your one-year lease, you made a contract to pay a full year's rent, usually one month at a time. You then had the right to pay the same rent for that whole year; in return, your landlord got the right to expect payment of the entire year's rent in monthly installments. If you leave before you have paid all the rent for the year, and it is not because of anything the landlord did or did not do, you have breached the lease. The landlord can then try to get you to pay all the rent for the rest of the year, even though you are no longer living there.

If your landlord demands payment or sues you for the remainder of the rent, there are two situations in which you might not owe this money.

If your landlord re-rents the apartment for the same rent, then he cannot hold you responsible for rent for the same period. In other

words, if he receives the same rent from another tenant by re-renting right away, then your breach of the lease did not cost him any money. The landlord should try to re-rent the apartment, rather than simply leaving it vacant and suing you for the unpaid rent. If he is unable to re-rent, if the apartment is vacant for a time, or if he can only rent it for a lower amount, then you may be liable for all or part of the unpaid rent.

If your landlord has breached the lease first, then you may not be liable for the remainder of the rent. This means that your landlord has failed in some significant way to keep his end of the bargain, such as by failing to make necessary repairs. **If you leave for reasons of your own, no matter how reasonable they may seem to you, you can still be liable to pay the remainder of the rent.** If your landlord has failed to abide by the lease or has violated the law (such as by failing to follow state or local housing codes), then he has breached the lease, which may relieve you of your obligation to continue paying rent.

### ***Caution***

In order to justify releasing you from your lease obligations, the landlord's breach must be substantial, and not merely some technical or trivial failure.

### **What is good cause for breaking my lease?**

Usually, there will be no way to tell in advance whether you are legally justified in breaking your lease. The best approach is to try to come to an agreement with your landlord; if your landlord agrees, then you have mutually terminated the lease, and you should have no further obligation to pay rent. You should try to get any such agreement in writing. If you do not have the landlord's agreement in advance, then you are taking a risk by vacating. You will have to wait to see if the apartment is re-rented, or to see how vigorously your landlord pursues you for unpaid rent. Ultimately, if your landlord sues you, a judge will decide whether you were justified in breaking the lease.

### **How do I go about breaking my lease?**

First, you should always try to avoid leaving before your lease expires, unless you and your landlord agree. Even if you feel completely justified, you will still face the risk of owing money and possibly a court judgment against you. If the problem lies in something your landlord is doing or not doing, you should try to negotiate a solution. If your apartment has code violations, see our information on **rent withholding (LINK NO LONGER WORKING)**. If the reason for leaving is not your landlord's fault, try to get your landlord to release you from the lease. If you cannot and

still need to vacate, give your landlord as much notice as possible, preferably in writing. The more notice you give, the more time your landlord has to re-rent, which can help you avoid owing rent. Offer to try to find another tenant to take your place. Your landlord does not have to accept a tenant you bring him, but it will strengthen your position later if you have done everything possible to save the landlord from losing money.

Mailing Address...

603 Legal Aid

93 N. State Street, Suite 200

Concord, NH 03301

[Apply for help online](#) or call 603 Legal Aid at 603-224-3333

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