

## Don't Lease a Home Without It

by Nolo.com

A lease or rental agreement sets out the rules landlords and tenants agree to follow in their rental relationship. It is a legal contract, as well as an immensely practical document full of crucial business details, such as how long the tenant can occupy your property and the amount of rent due each month. Whether your lease or rental agreement is as short as one page or longer than five, typed or handwritten, it needs to cover the basic terms of your tenancy.

### Which Is Better, a Lease or a Rental Agreement?

**A rental agreement** establishes a tenancy for a short period of time, usually one month. A month-to-month rental agreement is automatically renewed each month unless you or your tenant gives the other the proper amount of notice (typically 30 days) and terminates the agreement. You may increase the rent, change other terms of the tenancy or terminate it on relatively short notice (usually 30 days)-- unless local rent control ordinances specify otherwise. Many landlords prefer to rent month-to-month, particularly in tight rental markets where new tenants can be easily found and rents are trending upwards. The flip side is that month-to-month tenancies almost guarantee more tenant turnover.

**A lease** obligates both you and the tenant for a set period of time, usually a year. You can't raise the rent or change other terms until the lease runs out, unless the lease itself provides for modifications or the tenant agrees in writing to the changes. In addition, you usually can neither ask the tenant to move out nor prevail in an eviction lawsuit unless the tenant fails to pay the rent or violates another important term of the lease or state law. At the end of the lease term, you can either decline to renew it or negotiate to sign a new lease with the same or different terms. Landlords often prefer leases in areas where there is a high vacancy rate or where it is difficult to find tenants for certain seasons of the year--for example, in college towns that are often deserted in summer.

Not only should a lease be thorough, it should also be legal. Be sure your lease or rental agreement complies with all relevant laws including rent control ordinances,

health and safety codes, occupancy rules and anti-discrimination laws. State laws are especially key, setting security deposit limits, notice requirements for entering rental property, tenants' rights to sublet or bring in additional roommates, rules for changing or ending a tenancy, specific disclosure requirements such as past flooding in the rental unit and more. See your state's landlord-tenant statutes for details. Here are some of the most important items to cover.

### **Names of All Tenants**

Every adult who lives in the rental unit, including both members of a married couple, should be named as tenants and sign your lease or rental agreement. This makes each tenant legally responsible for all terms, including the full amount of the rent and the use of the property--meaning you can legally seek the entire rent from any one of the tenants should the others skip out or be unable to pay.

### **Limits on Occupancy**

Your agreement should clearly specify that the rental unit is the residence of only the tenants who have signed the lease and their children. This guarantees your right to determine who lives in your property--ideally, people you have screened and approved--and to limit the number of occupants. The value of this clause is that it gives you grounds to evict a tenant who moves in a friend or relative, or sublets the unit, without your permission.

### **Term of the Tenancy**

Every rental document should state whether it is a rental agreement or a fixed-term lease. What's the difference between the two? Both rental agreements and fixed-term leases cover basic details such as tenants names and rent provisions; they differ mainly in the length of the tenancy they create. Rental agreements usually run from month-to-month and self-renew unless terminated by the landlord or tenant. Leases, on the other hand, typically last a year. Your choice will depend on how long you want the tenant to stay and how much flexibility you want in your arrangement.

### **Rent**

Your lease or rental agreement should specify the amount of rent, when it is due (typically, the first of the month), and how it's to be paid, such as by mail to your office. To avoid confusion and head off disputes with tenants, spell out details such as:

- acceptable payment methods (such as personal check only)
- whether late fees will be due if rent is not paid on time, the amount of the fee, and whether or not there's any grace period, and

- any penalties if a rent check bounces.

## **Deposits and Fees**

The use and return of security deposits is a frequent source of friction between landlords and tenants. To avoid confusion and legal hassles, your lease or rental agreement should be clear on:

- the dollar amount of the security deposit
- how the deposit may be used (for example, for damage repair) and not used (such as for last month's rent)
- when and how you will return the deposit and account for deductions after the tenant moves out, and
- any legal nonrefundable fees, such as for cleaning or pets.

It's also a good idea (and legally required in a few states and cities) to include details on where the deposit is being held and whether interest on the deposit will be paid to the tenant.

## **Repairs and Maintenance**

Your best defense against rent-withholding hassles and other problems (especially over security deposits) is to clearly set out your and the tenant's responsibilities for repair and maintenance in your lease or rental agreement, including:

- the tenant's responsibility to keep the rental premises clean and sanitary and to pay for any damage caused by their abuse or neglect
- a requirement that the tenant alert you to defective or dangerous conditions in the rental property, with specific details on your procedures for handling complaint and repair requests, and
- restrictions on tenant repairs and alterations, such as adding a built-in dishwasher, installing a burglar alarm system or painting walls without your permission.

## **Entry to Rental Property**

To avoid tenant claims of illegal entry or violation of privacy rights, your lease or rental agreement should clarify your legal right of access to the property--for example, to make repairs--and state how much advance notice you will provide the tenant before entering.

## **Restrictions on Tenant Illegal Activity**

To avoid trouble among your tenants, prevent property damage and limit your exposure to lawsuits from residents and neighbors, you should include an explicit lease or rental agreement clause prohibiting disruptive behavior such as excessive noise and illegal activity such as drug dealing.

### **Other Important Rules and Restrictions**

If you do not allow pets, be sure your lease or rental agreement is clear on the subject. If you do allow pets, you should identify any special restrictions such as a limit on the size or number of pets, or a requirement that the tenant will keep the yard free of all animal waste.

Any other legal restrictions, such as limits on the type of business a tenant may run from home, should also be spelled out in the lease or rental agreement. Important rules and regulations covering parking and use of common areas should be specifically incorporated in the lease or rental agreement.