

- **Check out the Possible Sublessee.** You will want to screen potential sublessees carefully, because *you* can be ultimately responsible for unpaid rent or apartment damages. You want to be assured that the sublessee you find is able to pay the rent and has not had past rental problems. You may ask for landlord references to find out if they paid rent late or caused damages in previous apartments. A landlord may also decide to screen the potential sublessees him- or herself.

- **Sublet Agreements.** The single most important step is using a written sublet agreement. Sample sublet agreements are available at the Tenant Resource Center. List all terms of the sublet clearly, such as the starting and ending dates, amount of rent, and how rent will be paid, the security deposit arrangement, and who will clean the apartment at the end of the lease or pay charges to the deposit. Include any particular conditions such as whether or not the apartment will be furnished, responsibilities like taking care of plants or pets, and parking.

- **Security Deposits.** Because you are ultimately responsible in a sublet agreement, you may want to collect a deposit from the sublessee. In the event the landlord sues the sublessee and/or you, you will at least retain some of the sublessee's money. When you collect the deposit, you can keep it yourself and/or arrange with the landlord *in writing* for the deposit you paid to be returned directly to the sublessee. In some cases, the landlord may charge the sublessee a deposit while trying to keep the original tenant's deposit. **In the cities of Madison and Fitchburg, this charge is illegal if the total deposit exceeds one month's rent.** Landlords may charge a sublessee any amount for a deposit. See our Security Deposit brochure for more information.

- **Check-In.** It is wise to have your sublessee complete a check-in form when they move in to document the apartment conditions. All tenants must be given at least 7 days after moving in to inform the landlord/sublessor about any pre-existing damages. Have your sublessee note all problems with the apartment on the form. Then have the sublessee make a copy of the completed form for him- or herself. Give the original to the landlord within several days of moving and keep a copy for your records.

- **Check-Out.** Make an appointment to check out with your landlord before the new sublessee moves in. You can also fill out a check-out form. Inform your landlord in writing that you completed your own check-out form. Make a copy of the completed check-out form and give the original to the landlord. If you

believe you may have difficulty getting your deposit back, have a witness (not a roommate or relative) inspect with you and sign the completed check-out form. You can also take photos to document the condition of the unit.

Ending a Month-to-Month Tenancy

Month-to-month tenancies and other periodic tenancies are normally terminated by written notice given at least one full rental period before the termination takes effect. Both the tenant and the landlord have the right to give notice without a reason and must follow the same procedures as specified in Wis. Stat. 704.19:

- **Give written notice of intent to terminate.** Verbal notices are not valid, no matter whether the lease was written or verbal.
- **State the date you are ending your lease. The date must be the last day of a rental period, and at least 28 days away.** If the termination notice is given less than 28 days before the end of a rental period, it is still valid; however, it goes into effect at the end of the following rental period. If your lease says that you must give more than 28 days notice, that is valid and enforceable, even if the lease has since expired. Check your most recent written lease to see the amount of notice required.

When a Regular Lease Ends...

Tenants and landlords can both choose to end a lease when the lease term is over (for example, a year long lease with no automatic renewal clause).

The **landlord** has no legal obligation to renew the lease unless:

- The landlord is choosing not to renew for discriminatory or retaliatory reasons. (See our brochures on both topics.)
- There is an automatic renewal clause in effect, and the landlord hasn't given appropriate written notice.

The **tenant** has no legal obligation to renew the lease unless there is an automatic renewal clause in effect **and**:

- The landlord sent a written notice 15-30 days before the tenant's written notice to end the lease was due, **and**
- The tenant didn't give written notice in the time period specified on the lease required to end the lease.

The following forms are available on our website at www.tenantresourcecenter.org:

- Sublet Agreements
- Termination of Tenancy by Mutual Agreement
- Month-to-Month Non-Renewal
- Check-in and Check-out forms
- Applications

Ending Your Lease Vocabulary

Automatic Renewal Clause: A clause in a lease causing it to continue after the lease term is over, with no further written agreement between tenant and landlord.

Break your lease End a tenancy early by moving out without the agreement of the landlord.

Damages The amount of money a tenant or landlord may be entitled to when the other breaks a lease or other agreement, including unpaid rent and utilities, and physical damages to the apartment.

Jointly and severally liable All co-tenants, sublessors and sublessees are equally responsible for all terms of the rental agreement, including for example the full payment of rent.

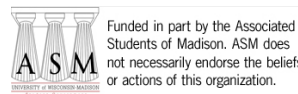
Mitigate Lessen or minimize.

Rental Period The period for which you pay rent. Usually in monthly increments, the rental period begins on the day that you are required to pay rent, and ends the day before you are next required to pay rent.

Sublessor Original tenant.

Sublessee New tenant.

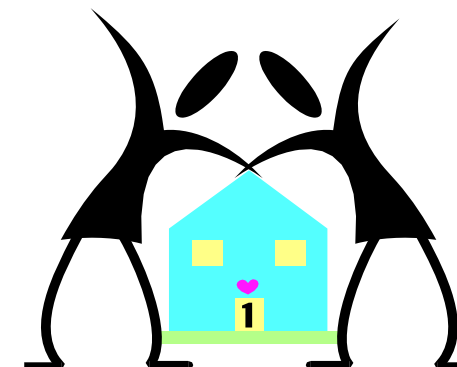
Sublet Make an agreement with a new tenant to assume responsibility for the lease. If the new tenant fails to fulfill responsibilities, the original tenant remains responsible.



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The **Tenant Resource Center** is a non-profit, membership organization dedicated to promoting positive relations between rental housing consumers and providers throughout Wisconsin. By providing information and referrals, education about rental rights and responsibilities, and access to conflict resolution, we empower the community to obtain and maintain quality affordable housing.

Ending Your Lease



Tenant Resource Center

1202 Williamson St. #102, Madison, WI 53703
9:00 a.m. – 6:00 p.m., Monday – Friday
www.tenantresourcecenter.org

Rental Rights (608) 257-0006

asktrc@tenantresourcecenter.org

En Español (608) 237-8913

Toll-free (877) 238 RENT (7368)

Mediation (608) 257-2799

Business Line/TTY (608) 257-0143

Tenant Resource Center

Campus Office

Student Activity Center
ASM Office - Room 4301
(608) 561-3727

uw@tenantresourcecenter.org

Housing Help Desk

1819 Aberg Ave. Room 2
Madison, WI 53704

(Dane County Job Center)

(608) 242-7406, 10:00 a.m. – 2:00 p.m.

If you need an interpreter, materials in alternate formats, or other accommodations, call our office at (608) 257-0143.

No part of this brochure should be regarded as legal advice or considered a replacement of a landlord's or tenant's responsibility to be familiar with the law. If you need legal assistance, seek the services of a Wisconsin housing attorney.

NOTE: New law SB107 will change some local laws. These laws are indicated by **bold** or ~~strikethrough~~. These laws may or may not affect you depending upon when the law is signed and when the lease went into effect.

Reasons To Get Out of Your Lease

Contrary to popular belief, there are no provisions in Wisconsin or local laws that permit tenants to cancel a lease if they buy a house, become ill, lose their job, get a job transfer, and so on. There are, however, five ways to get out of a lease with no further obligation to pay rent.

1. Mutual Agreement to End: The landlord and tenant(s) may mutually agree to end a tenancy at any time without further responsibility by either party. The landlord may be willing to sign an early termination in order to:

- Avoid disputes between tenants,
- Avoid the court costs of the eviction process,
- Receive a fee that the tenant offers to pay,
- Avoid the cost of a building inspector,
- Have access to the apartment to make repairs,
- Have access to the apartment so they can sell it.

If the tenant has a written lease, the agreement to terminate *must* be in writing, and requires the consent of everyone on the lease. Even if the tenant does not have a written lease, it is still a good idea to put the agreement to terminate in writing to protect both parties. Sample mutual termination forms are available at the Tenant Resource Center. If the landlord asks for a payment, the tenant cannot be required to pay more than the landlord's actual and reasonable loss (including lost rent and advertising costs, but not compensation for time spent re-renting the apartment), but may choose to pay more in order to motivate the landlord to end the lease.

2. Constructive Eviction: If a home is unsafe for human habitation, a lease may be voided. See our Repair brochure for more information on constructive eviction.

3. Soldiers' and Sailors' Civil Relief Act: Tenants can end a lease if the tenant enters into a military service, if the tenant receives military orders to change station, or to deploy for 90 days or more. This applies to leases which are occupied or are intended to be occupied by a service member or a service member's dependents (spouse, child or an individual for whom the servicemember provided more than half the individual's support for 180 days preceding application for relief). Tenants must give written 30 days' notice and a copy of the military orders to the landlord in order to use this act.

4. The Safe Housing Act allows victims of domestic violence, sexual assault, stalking and child abuse to terminate a lease if they are in imminent threat of physical harm by remaining on the premises and have an accepted form of documentation, such as a permanent restraining order (Wis. Stat. 704.16). To end a lease under these laws, the tenant must write a letter to the landlord saying that they wish to end their rental obligation because they are in imminent danger of physical harm, and provide a copy of the accepted documentation (example: a court order) to the landlord. Under these limited circumstances, the lease would end as if giving a termination notice for a month-to-month tenancy (see below).

5. The Tenant has Died: Wis. Stat. 704.165 says that a lease is terminated 60 days after a landlord is notified of a tenant's death (or before, if the lease ends before the 60 days). After 60 days, the tenant's estate is not liable for any further rent. If the unit is surrendered by the estate prior to the completion of the 60 days, then a landlord would have to mitigate damages in the same way as if the lease had been broken. The lease would still be valid for any remaining co-tenants (for instance, a living spouse who was named on the lease).

Leaving Before Your Lease is Up

Tenants who need to move out early, and who aren't able to end the lease for the five reasons above, have two options: breaking the lease and subletting.

Breaking Your Lease

All tenants may break their leases, even if the landlord says that subletting is the only option. If you want to break your lease, write a letter to your landlord (keeping a copy for yourself) stating that you are breaking your lease and the date that you are moving out. Remind the landlord that s/he has a duty to mitigate (lessen) damages by making efforts to re-rent the apartment as soon as possible. You will be obligated to the rental agreement until a new tenant signs a lease and moves in, but after that you will no longer be responsible for the apartment, unlike a sublet. Your landlord can bill you for the rent during the time that the unit remained unrented until your lease expires.

Mitigation

The landlord has the obligation to mitigate the damages by trying to find a new tenant once you move out *and* stop paying rent. (Wis. Stats. 704.29 (2)) This means that:

- The landlord must advertise your apartment the same way s/he normally advertises vacant apartments.
- The landlord must show your apartment to interested tenants. Although s/he cannot try to steer prospective tenants away from your apartment to other vacant apartments, s/he is not required to rent your apartment first.
- The landlord may charge you the actual costs associated with re-renting your apartment (advertising, etc), but not for time spent. Fees to break the lease that go beyond advertising costs and unpaid rent are often something a tenant can recover.

If the landlord is not mitigating

- Compile evidence showing that your landlord hasn't mitigated. (See examples of such evidence below.)
- Send a letter to your landlord (keeping a copy for yourself) detailing your evidence of his/her failure to mitigate, and state that this failure means that you are no longer obligated to pay rent.
- If the landlord takes you to small claims court for unpaid rent, you will need to prove that s/he failed to mitigate or that his/her efforts to mitigate were not reasonable, so you should keep all evidence and correspondence relating to the landlord's failure to mitigate. (Wis. Stat. 704.29 (3))

Proving whether the landlord is trying to mitigate

- Look for ads for your apartment in local newspapers and rental publications.
- Have a friend call to inquire about vacant apartments to see if the landlord mentions your unit. If there are many apartments available in a complex, your friend could mention specifics about your unit (such as the number of bedrooms, the floor it's on, which direction the windows face). Get a written statement from your friend.
- Find out if your landlord has raised the price of your apartment or changed the lease (for example, now not allowing pets or smokers). Significantly altering the rental terms in a way that makes the unit more difficult to rent or less desirable to potential tenants can be failure to properly mitigate damages.
- Stop by to see if the landlord is renovating or using your apartment. Take photos if this is the case.

Re-renting the apartment yourself

This is often the fastest way to find a new tenant, especially if you are worried that your landlord will not

try to re-rent the apartment.

- Place ads for your apartment and have people call you directly.
- Show the apartment yourself.
- Give interested people applications (get them from the landlord).
- Keep names and phone numbers of interested tenants so you can follow up with them in case the landlord is trying to keep people from renting the apartment. Get written statements, if possible.

Subletting Your Apartment

If you sublet you will still be on the lease, even though you will no longer be living in the apartment. If the person you sublet to does not pay the rent or damages the apartment, you will be financially responsible. Although subletting can be risky, you may want to sublet if you wish to return to the same apartment after a time away, have a specific friend or relative who wants to move in, or feel that you'll need to offer an incentive, such as reduced rent, to find someone to move in.

Issues to consider before subletting

- **Landlord Permission.** Tenants can sublet without the landlord's permission unless the lease says otherwise. Check your lease. If you sublet without the landlord's permission and permission is required in the written lease, the landlord can evict the sublessees and possibly hold the lessor (you) liable for remaining rent payments and damages.
- **Landlord Sublet Procedures.** Some landlords have specific procedures which you must follow for sublet permission. Some landlords require that you advertise, show the apartment, and forward interested parties to them for approval. Some landlords are willing to show the apartments. Some landlords demand "sublet fees" as well as the actual cost of ads. If a flat fee is required, ask in writing for itemized fees, so you know the actual and reasonable costs. Flat fees over \$100 may be illegal.
- **Roommate Permission.** If you have roommates, finding an acceptable sublessee may become an issue with them. All parties on the lease must agree to any major changes, including adding new tenants. Make sure that your roommates meet the potential sublessee. Remind your roommates that they are "jointly and severally" liable, so if you do not find a sublessee and do not pay the rent, the landlord may try to evict and/or collect your rent from them.