

- **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. Outside the cities of Madison and Fitchburg, landlords may charge a sublessee any amount for a deposit. The landlord is required to account for or return the sublessor's deposit within 21 days after the sublessee moves out. If the sublessee pays you directly, you have to return or account for their deposit within 21 days after they move out, and the sublessee has the same remedies against you for illegal deductions, just as if you were the landlord.
- **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 complete the check-in form. 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 also need to fill out a check-out form. Inform your landlord in writing that you completed your own check-out form. Write your forwarding address on the sublet form so that your deposit is returned to the proper address. 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.

## Reasons To Break Your Lease

Contrary to popular belief, there are no provisions in Wisconsin or local laws that permit tenants to break a lease if they buy a house or get a job transfer. It may, however, be possible to negotiate with the landlord to include this type of provision in the original lease agreement.

## Ending Your Lease Vocabulary

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

**Mitigate** Lessen or minimize

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

**Sublessor** Original tenant

**Sublessee** New tenant

**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.

**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 damages to the apartment

Sublet forms are available on our website at  
[www.tenantresourcecenter.org](http://www.tenantresourcecenter.org)

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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

## Mutual Agreements, Breaking Your Lease, Subletting



## Tenant Resource Center

1202 Williamson St., Suite A  
Madison, WI 53703

9:00 a.m.–6:00 p.m., Monday–Friday

**Rental Rights** (608) 257-0006

**Toll-free outside Dane County**

(877) 238-RENT (7368)

**Office/TTY** (608) 257-0143

**Mediation** (608) 257-2799

[asktrc@tenantresourcecenter.org](mailto:asktrc@tenantresourcecenter.org)

[www.tenantresourcecenter.org](http://www.tenantresourcecenter.org)

## Housing Help Desk

1819 Aberg Ave. Room 2

(Dane County Job Center)

(608) 242-7406, 8:00 a.m.–4:30 p.m.

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

**Si Ud. necesita servicios en español, llame al (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.

## Leaving Before Your Lease Is Up

Tenants who need to move out early have three options: negotiating with the landlord to end the lease early, breaking the lease, and subletting.

## Mutual Agreement to End

The landlord and tenant 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 to avoid disputes between tenants, to avoid court costs of the eviction process, because the tenant offers to pay a fee, or because the landlord would like to do work on the apartment. If the tenant has a written lease, the agreement to terminate *must* be in writing. 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 lease requires 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). If the tenant pays a fee to break the lease, and the landlord re-rents the apartment immediately after the tenant vacates and with no advertising expenses, the tenant is entitled to recover the entire fee.

## 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 have to pay rent 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.

### Mitigation

The landlord has the obligation to mitigate the damages by trying to find a new tenant. (Wis. Stats. 704.29 (2))

- 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, but not for time spent.

### ***If the landlord is not trying to mitigate***

- Compile evidence such as newspapers in which your apartment was not advertised but should have been, statements from people who tried calling about your apartment, and pictures of renovations in progress. (See 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.
- 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.

### ***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.

## 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 with year-to-year leases 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.
- **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.