

- you lost by default because you never got the court papers, and you have strong proof that the landlord did not have a good case against you or
- your landlord's property was in foreclosure and you moved out before the date you had to **or** you never got any notice that you had to move out because of the foreclosure.



You need to ask the court in writing to expunge your record. You may have to go to court to explain why you think you should be able to expunge. Your written request is called a “motion.” Most courts have forms for making “motions” which you could use. There will be a fee for making an expungement motion. You can ask the court clerks how to make the motion for free. Contact an attorney or legal services office for help with your expungement. A list of legal services offices can be found in the back of this booklet.

If the court expunges your records, contact each of the tenant screening agencies in Minnesota to let them know. The law says that a screening company may not report an eviction once the company knows it has been expunged. A list of Twin Cities tenant screening agencies can be found in the back of this booklet. You may also be able to get a list of tenant screening agencies from court clerks.

RENTING AN APARTMENT — THE LEASE

A “lease” is the agreement a tenant makes with a landlord to rent a place to live. A lease is usually in writing, but it may be verbal. A lease has to be in writing if the rental period is for more than 1 year. Some landlords of smaller buildings like to have only a verbal agreement with a tenant. This is legal but it is in your best interest to have a written lease. If the apartment is in a building with 12 or more units, the landlord **must** use a written lease.

When you have a written lease, the landlord has to give you a copy of the lease. If a landlord refuses to give you a copy of the written lease, the landlord might be prevented from using the lease in court. If the landlord of a building with 12 or more units refuses to give a tenant a copy of the written lease, the owner is guilty of a petty misdemeanor.

Generally there are 2 types of leases, **fixed term leases** and **periodic leases**. The type of lease you have may affect your legal rights as a tenant.

FIXED TERM LEASE

A fixed term lease is a lease for a set period of time. This type of lease ends on a specific date. Your right to stay in the rental property ends on that date. The most common fixed term leases are for 6 months or 1 year. To end a fixed term lease on the date stated, you do not usually have to give your landlord advance written notice. Some fixed term leases will say that you have to, but it has to be written in the lease. Rules may be different if your rent is subsidized by the government. See the Public and Subsidized Housing section of this booklet starting on page 52.



You may be able to stay after the end of a fixed term lease if you and the landlord agree to it. You may also be able to stay if your landlord accepts rent from you after the lease ends. If the landlord accepts rent after the lease ends but you do not sign a new lease, you are automatically on a periodic month-to-month lease.

Some fixed term leases have an **automatic renewal**. This means that the lease is renewed (extended) for the original period of time unless you give your landlord proper advance written notice that you plan to move out at the end of the lease term. The landlord must give you advance notice that the lease will automatically renew. Advance notice must take place 15 – 30 days before your notice-to-move deadline. Check your lease for your notice deadline. If the landlord does not give notice, the lease is not renewed for the original period. If the landlord does give you notice of the renewal, you must give written notice to your landlord of your intent to move before the deadline. Otherwise you could be held responsible for a lease term's worth of rent when you move.

PERIODIC LEASE

This is a lease that does not have a specific or set ending date. It goes from one rental period to another until the landlord or the tenant ends the lease. The month-to-month lease is the most common kind of periodic lease.

To end a periodic lease, **the landlord or tenant must give written notice at least one full rental period in advance**. This means that if you want to end the lease, you must give your landlord your **written notice** the day before the final month's rent payment is due. If your landlord wants to end the lease he or she must give you **written notice** in the same manner.

For example, you are a tenant in a month-to-month or **periodic** lease, and you want to move out by June 1. Your last month will be May and your rent for May is due May 1. You have to give your landlord your written notice that you want to move out by midnight, April 30.

REACHING A LEASE AGREEMENT

Whatever kind of lease you end up having, it is a good idea to put it in writing to avoid problems later between you and the landlord. If the landlord will not put the agreement in writing, send the landlord a letter saying what you think the rules of the lease are. **Keep a copy of this letter for yourself. A verbal agreement can be as legal and binding as a written agreement, but it is harder to prove what was in the agreement. A copy of your letter can help you prove what is included in your verbal agreement.**



Before signing a written lease with a landlord, read all papers carefully. **Make sure you fully understand the agreement before you sign it.** If you want to change any of the lease terms, you should do the following:

1. Discuss different lease terms with the landlord. Calmly and politely tell the landlord the changes you want made. If the landlord will not agree to your changes, calmly and politely explain why you want the changes. See if you and the landlord can agree to wording that you are both happy with.
2. If the landlord agrees to your changes, **write** all the changes you both agree to on the written lease. This is important because if you have problems, you may not be able to prove changes that you agreed to verbally.
3. You and your landlord should write your initials next to all changes.
4. After all changes have been made and initialed; you and your landlord should sign the lease.

You can also ask the landlord to sign a lease that **you** have written. See page 62 for a link to a sample lease form.

ALWAYS KEEP A COPY OF THE LEASE FOR YOURSELF

LEASE TERMS

The lease binds both the landlord and you to the terms of the lease. That means both you and the landlord must follow the rules of the lease. These are things like

- when rent is due
- when notice to move must be given
- the amount of the security deposit and what it covers
- times when the landlord may enter the apartment
- parking rules
- who pays the cost of heat, lights, water, and other utilities
- how repairs are made
- garbage disposal
- pets
- guests
- subletting
- appliance maintenance

The landlord cannot say that you have to do repairs or maintenance duties (like yard work) unless you agree to it in writing and you are paid for the work. You can be paid by having a lower rent or direct payment from the landlord.

The landlord may ask for your full name and date of birth on the rental application and may put this information on your lease.

For leases started after January 1, 2011, Minnesota law caps the amount that can be charged as a periodic late fee at 8% of the unpaid rent. If you live in subsidized housing (for example Section 8) the late fee may be higher only if federal law allows it.

After August 1, 2011, you are automatically entitled to legal fees if you have to defend a lawsuit or you have to sue the landlord over something that, in the lease, the landlord could get legal fees for if the landlord sues you.

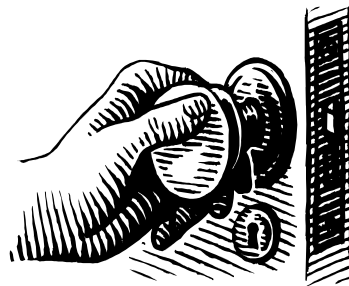
By Minnesota law, every written or verbal lease assumes that certain illegal activities will not be allowed on the property by the tenant or the landlord. Illegal activities are things like allowing prostitution or prostitution-related activity, the unlawful use or possession of a firearm, or the manufacture, purchase, possession, sale, distribution or presence of illegal drugs or stolen property anywhere on the premises, including the common areas. **This law cannot be taken out or changed by the landlord or the tenant.**

If you violate this promise, your right to live there ends. The landlord may file an eviction court complaint (also called an unlawful detainer) against you for violating this promise. A landlord can do this without advance notice if these rules are

broken. The eviction hearing may be scheduled as soon as 5 days after the landlord starts the eviction process.

There are some lease terms which you should watch out for. Check that your lease **does not** have the following things in it

- Allowing the landlord to come into your apartment at **any** time. A landlord may not enter your home unless they first give you notice, unless it is an emergency. If your lease says that your landlord can inspect or show your apartment to new tenants at any time, without the landlord making a good faith effort to give you reasonable notice, it is an illegal provision and you should ask to have it changed. Change it to read "the landlord can come into the apartment only at reasonable times with 24 hours advance notice to make repairs or to show the unit to prospective tenants." See the Right to Privacy section of this booklet on page 17. **Remember to have the landlord initial the change on the written lease.**



- An "acceleration or escalation clause." This means that you have to pay the rent due for the whole lease period if you are late in paying the monthly rent.

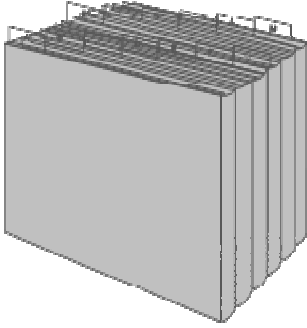
- Allowing the landlord to make new rules that **automatically** take effect or to make **unspecified** rent increases during the lease period.

AVOID SIGNING A LEASE THAT HAS ILLEGAL THINGS IN IT

Some common examples of illegal lease terms include those that

- State that the landlord can evict you without a court hearing
- State that the landlord does not have to make repairs or maintenance as required by law
- Allow the landlord to avoid paying for damage to your property even if the damage is the landlord's fault or
- Allow the landlord to keep your security deposit just because you move out within a specified period, such as 6 months.

The landlord may not be able to enforce illegal lease provisions. So, if you signed a lease that has an illegal provision you do not have to obey that illegal provision.



KEEP RECORDS

When you rent an apartment, keep your rental agreement, deposit and rent receipts, inspection list, letters, and all papers about your apartment in one safe place.

It is especially important to **keep all receipts** for money paid. Your landlord must give you a receipt for the rent if you pay in cash.

If you pay with a money order, you still want to get a written receipt from the landlord. **But a money order stub is counted as proof that you paid your landlord if the stub is in the amount of the rent, has a date that is on or close to the date the rent was due, and is made payable to the landlord.** If your landlord shows that rent was not credited to a rent ledger, you may have to prove the money order was sent and received.

Be careful if it seems like the landlord does not want to give you a receipt. This may mean that other problems will come up in the future.

SHARING APARTMENTS

Be careful when choosing roommates. You can be evicted if your roommate breaks the lease. You could also be financially responsible if your roommate doesn't pay his rent. If more than one person rents the house or apartment, each person is legally responsible for paying **the whole rent**. This means that if one roommate does not pay their share, someone else will have to cover it. If your roommate moves out, you will have to pay the whole rent or the landlord can evict you. But you can sue the other tenants if they leave without paying their share of the rent. In some cases, your lease may say that you are only responsible for your share of the rent. Contact a lawyer or tenant advocate if this happens to you.

TENANT RIGHTS AND RESPONSIBILITIES

TENANT RIGHTS

As a tenant in Minnesota, you have the following rights:

- Your landlord must follow the rules of your lease.
- Your landlord must keep your apartment free of health and safety hazards.
- Your landlord must keep your apartment in good repair. The structure, fixtures, plumbing and other equipment must be kept working safely and properly.