**EVERYTHING YOU NEED TO KNOW ABOUT  *ENDING YOUR LEASE***

Most landlords in Flagstaff require tenants to sign a lease. For many of reasons, students sometimes move out before the lease is up. Before you do anything rash, you should make sure you are aware of the risks and what you can do to minimize them.

Below are examples of the most common situations that cause people to move before the end of their leases. Reading this pamphlet is a good first step. However, every situation must be analyzed based upon its own facts.

**If you are a renter who wants or needs to move, please come to visit the NAU Student Legal Counsel to discuss your particular situation before taking any action!**

**SOME GENERAL PRINCIPLES**

A lease is a contract. An agreement between roommates is a contract. There are two general principles of contract law that you should remember whenever you are thinking about moving before the end of a lease. Put very simply they are:

1) If you break a contract, you are responsible for the damages incurred by the other party as a result;

2) When a contract is broken, the damaged party must make reasonable efforts to keep his/her damages as low as possible.

3) Keep excellent documentation of any communications with the landlord, roommates, and any efforts to find a replacement if you have to move out.

 Now, for some examples:

**1. THE CHEAPER APARTMENT**

You arrived in Flagstaff right before classes started and signed a year's lease for an apartment that cost more than your budget could support. Now you've found an available apartment that is nicer and cheaper and you want out of your lease.

A lease is a contract. If you break the contract by moving out before the lease is up, you will be legally responsible for any damages the landlord incurs as a result. Usually the damages will consist of rent lost while the apartment is vacant. The landlord is responsible to make reasonable efforts to find a new tenant as soon as possible and thereby minimize the damages.

It's often a good idea to talk to your landlord and try to negotiate an end your lease. Some landlords will let you terminate a lease if you give 30-days written notice and pay the equivalent of one month's rent. The advantage of buying your way out of the lease is certainty. You know what it's going to cost and don't have to worry about potential lawsuits or bad credit.

If you can't negotiate an end to the lease and decide to move anyway, there are a couple of other strategies you can use to help protect yourself. Though it is not your legal responsibility to do so, you can try to find a new tenant to sign a new lease for your place. (If you sublease to them, your lease is still in effect and you are still responsible if they don't pay the rent or if they do damage to the apartment. Check the lease to see if subleasing is allowed.) You can also monitor the landlord's efforts to rerent. Check the newspaper or call the office to see if the apartment is being advertised. Make sure the landlord is not taking advantage of your leaving to do major remodeling or repairs and then charging you for the time the apartment is out of service.

**2. THE BAD LANDLORD**

Your landlady has turned out to be your worst nightmare. She never fixes anything unless you make dozens of requests and then has her own "handyman" do the least possible to make largely inadequate repairs. She drops in unexpectedly and tries to impose all kinds of new "rules" that you weren't told about when you moved in. Her obnoxious son is your neighbor and he plays his stereo at top volume day and night, but she refuses to make him quiet down.

If your landlady has breached the lease, you may be able to terminate your lease without liability. You must write her a letter specifying the breaches -- repairs not made, the imposition of new rules, and the noise problem. The letter must be hand-delivered or sent by certified mail and must give her 10 days to rectify the problems (5 days if it involves health or safety issues) and state that if the problem isn't taken care of within that time, your lease will terminate as of a specific date. (See the Arizona Landlord Tenant Act, Arizona Revised Statutes Section 33-1361(A).)

Assuming the problems aren't solved within the 10 days, you may move out and stop paying rent as of the date you specified in your letter. Your landlady must treat your security deposit as though you had moved out at the end of your lease. Make sure you demand the return of your deposit and give a written request that it be mailed to your new address.

This strategy is not risk free. You have made a unilateral declaration that your landlady is in breach of the lease. She will probably take the position that you have broken the lease. This dispute may have to be resolved in court. You are still better off following this procedure, because it gives you a defense to the allegation that you broke your lease. If you just move out in frustration, you have broken your lease and are responsible for the rent until a new tenant is found, no matter how many provisions of the landlord tenant act your landlady violated.

**3. THE BAD ROOMMATE**

Your roommate has turned out to be your worst nightmare. He has noisy parties at your apartment every weekend and never cleans up. He eats all the food you buy and is always late with his share of the rent. His jobless brother came for a one-week visit in September and has never left. And he's bought a puppy, which he has neglected to housebreak. When you try to talk about it, he gets angry and says it's your problem, not his. You both signed the lease, but you can't stand living with him anymore.

When two roommates aren't getting along, by far the best solution is for one of them to move out and for the remaining roommate to find a new roommate. If the two of you can agree to this arrangement, most landlords will let the one who is leaving off the lease and the new roommate sign on. If this isn't possible, read on.

This is the most difficult renter's problem because you are dealing with two contracts, not just one. The first contract is the lease between you and your landlord. The second contract is the agreement between you and your roommate. We'll discuss the roommate agreement first.

You and your roommate may have signed a written agreement, or you may have a verbal agreement. In either case, you have a contract with each other. A verbal contract is just as binding as a written one, but its terms may be more difficult to prove. Even if the two of you never expressly agreed to anything, but signed a lease, there is an implied agreement that you are going to live together and share the rent until the lease is up.

***Really Helpful Hint:***

Get a written agreement with your roommates when you first move in together about when rent is paid, who pays utilities, who is responsible for various household duties, etc. This is the number one cause of housing issues. It is best to try to work things out by communicating with each other in an adult manner.

If your roommate has broken his end of the agreement, then you may very well be legally justified in moving out. It's a good idea to document your problems by giving your roommate a letter specifying how you believe he has broken the agreement (for example, by not paying for his share of the rent on time, getting an unauthorized pet, having a guest who stays for months, etc.) and giving him a chance to rectify the situation. In the letter, tell your roommate that if he doesn't take care of the problems you have listed by a specific date, you will be moving out. By doing this, you may be able to protect yourself from your roommate's claim that you broke your agreement with him by moving out before the lease was up. If you move out for some other reason (you want to live with someone else, for example), you are responsible for your share of the rent and utilities until your roommate finds someone to take your place. He may still sue you however for not paying the rent.

Now you have to deal with your landlord. Generally speaking, the landlord does not care that you and your roommate are not getting along. As far as he's concerned, it's your problem. Therefore, if you move out and there is no new roommate to take your place on the lease, you are at risk. If your now former roommate does not pay the full rent or damages the place or leaves it filthy, you are legally responsible to the landlord for any damages he incurs as a result. In fact, if the landlord chooses, he can hold you fully responsible, because by signing the lease you and your roommate each agreed to be 100% responsible for the promises made. So, even if you feel as though you are justified in moving out, you may end up owing money to the landlord.

**FOR MONTH-TO-MONTH TENANTS**

A lease is an agreement, written or oral, to rent for a specified period of time. If you do not have a lease, you are probably a month-to-month tenant. That means, among other things, that you can move out whenever you want to as long as you follow these steps: 1) Compose a written notice that you are terminating your tenancy as of a specified date. 2) Deliver the notice to your landlord by hand (actually place it in the landlord's or manager's hands) or by certified mail, return receipt requested. 3) Make sure that the landlord receives the notice at least 30 days before your rent is next due. (For example, if your rent is due on the first day of the month and you want to end your tenancy on May 31, you must deliver the notice by May 1, which is 30 days before June 1 -- the day the rent is next due.)

Questions: Call 523-4971 to schedule an appointment with the NAU Student Legal Counsel.

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