



BREAKING THE LEASE: NAVIGATING TENANT MOVE-OUTS BEFORE LEASE END

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BREAKING THE LEASE: HOW TO NAVIGATE TENANT MOVE-OUTS BEFORE THE LEASE ENDS

Over the last month, an increasing number of tenants have been moving-out of their apartments early to live with family for the duration of the global health crisis. When this happens, landlords often do not know what to do. Below is a brief outline of the steps to take when a tenant abandons a rental unit.

1

CONFIRM THE TENANTS ACTUALLY MOVED

Sometimes it is difficult to tell. Even if you've not seen or heard from your tenant and it appears that only "junk," is left in the unit, it does not definitively mean that the tenant has vacated. Before taking any action, a landlord must verify that a tenant has moved-out and is not coming back. The best way to do this is clear communication. (preferably, in writing.) Ask questions. (Did you move-out? Are you coming back? Can you turn in the keys?) There are very serious and expensive legal consequences for incorrectly assuming lease abandonment. If you suspect that a tenant moved out, but, the tenant will not respond, you must seek legal advice before acting.

2

READ THE LEASE

Leases vary widely, and there is no "standard" form. In DC, some provisions are set by law, but, landlord's rights in an early termination are largely contractual.

Specifically, you want to know whether moving out before the end of the lease term is a violation; whether you need to take any steps to "declare" the violation; and whether there are any circumstances that might allow a tenant to terminate the lease early.

In many leases, early move-out by the tenant, even with notice, is a violation, entitling the landlord to recover rent until the end of the lease term. However, this is not always the case. To understand your lease, you should contact your attorney.

3

SECURITY DEPOSIT

Once you've confirmed the tenant is gone forever, you must try to get a new tenant in the property to cover your losses. This is called a duty to mitigate your damages. Generally, a tenant will only be liable for rent following an early move out, for the time that the unit is vacant. However, a landlord must make reasonable efforts to re-rent the property. This includes listing the property on marketing platforms, making the unit available for showing, and offering reasonably comparable lease terms. A landlord cannot simply rest on their laurels, and run-up the former tenant's liability.

4

RE-RENT THE UNIT

You cannot retain the tenant's security deposit unless you comply with D.C. law. Within 45 days of the move-out, you must send a letter, by certified mail, to the tenant's last known address, stating how the deposit will be applied. Often, but, not always, the deposit can be retained and applied to unpaid rent. However, you still must go through the exercise of sending the legal notice, even where you do not have a forwarding address. I also recommend sending the notice digitally, to provide additional evidence that you have attempted to comply with the law.