

Legal clinic

Giving notice to your landlord

If you are looking for a house, it is a buyer's market. But once you buy the house how do you get out of your tenancy? Or has another apartment become available that you want to move to?

Often people think that if there is no lease for an apartment, they do not have to give any notice if they want to move. It is often too late when a tenant finds out that even though there is no lease, a tenant in residential premises must give notice if he wants to move. By then, the tenant may have already signed a lease for a new apartment, or have already set the closing date on the purchase of a house. He may end up having to pay rent on two places, or rent plus a mortgage.

Notice of termination

Under the Landlord and Tenant Act, a tenant in residential premises must give the landlord proper notice to end the tenant's responsibilities for rent. The notice of termination must be in writing, must be signed by the tenant and must state the address of the premises. How much notice you are required to give normally depends on whether there is a lease or a verbal tenancy for a fixed period of time, and on when rent was due under the terms of the tenancy agreement. In the most common situations where there is no lease or verbal tenancy for a fixed period of time, rent is due on the first of the month. Under the Landlord and Tenant Act this is

called a monthly tenancy.

A notice to terminate a monthly tenancy must be given at least 60 days before the date you state as your moving date. The termination date you choose must also be the last day of a month. For example, if you want to move out in April, you must give written notice to your landlord, stating that your tenancy will end on April 30, 1993. The notice must be given to your landlord by the end of February.

If you do not give a proper written notice, the risk you take is that you may be responsible for rent for an additional two months. Your landlord does have an obligation under the Landlord and Tenant Act to try to find new tenants, once you have moved. If he does find someone who will rent the place before the two months is up, you will not normally be responsible for the rent from the time that the new tenancy starts.

Written notice

If you have signed a lease or have agreed to a verbal tenancy for a fixed period of time, and want to move, the Landlord and Tenant Act requires you to give proper written notice to your landlord at least 60 days before the end of the lease or before the end of the term that you agreed to, if there is no lease. The termination date, or moving date, that you state must be the last day of the lease or fixed term. If you do not give proper notice, you take the risk that you may be responsible for

rent for the remainder of the tenancy.

All tenants under a lease have the right to sublet or assign the rental premises to another person. However, check your lease to see whether the landlord's consent is required. A landlord cannot arbitrarily or unreasonably withhold consent. If he does, the tenant can apply to Court for a judge's approval to sublet or assign. If a tenant does sublet or assign, the Landlord and Tenant Act says that a landlord cannot charge for his consent. He can only charge for reasonable expenses that are incurred by him as a result of the sublet or assignment.

Sublet responsibility

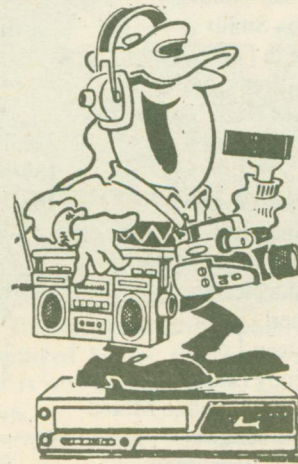
You should be aware that even when you sublet or assign the premises to another tenant, you remain responsible under your lease. For example, if the new tenant does not pay the rent, or does damage to the property, you may be held responsible.

An Agreement to Terminate is an alternative that lets you and the landlord agree to end your tenancy early. An Agreement to Terminate ends all of your further responsibilities to the landlord. You and your landlord can agree upon a termination date and can both sign an agreement saying that your tenancy will end on the date agreed upon. In that way you are protected against further risk. The problem is that your landlord may not wish to

agree to let you move when there is no new tenant arranged to take over paying the rent.

For answers to questions about the Rent Control Act and other tenant matters, you can call the Halton Hills Community Legal Clinic. The staff lawyers and the community

legal worker provide a range of legal services to financially eligible people throughout Halton in the legal areas of tenants' rights, rent control, welfare, family benefits, unemployment insurance, workers' compensation and Canada pension plan disability pensions.



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