

12. Ending a Residential Lease

Deportation can cause many concerns about living and rental situations. This section outlines the basic things to consider about your residential lease if you may be facing deportation.

The most important things to keep in mind are understanding your residential lease and speaking to your landlord.

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Each Chapter is intended to provide generalized information on a particular topic. In many cases, laws may differ from state to state. Therefore, this information is not intended to replace state-specific legal assistance. Nothing in this manual is intended to create an attorney-client or fiduciary relationship.

Understanding a Residential Lease

The most important step in transitioning from or out of a residential lease agreement is understanding the lease terms and agreements. As a precaution, it is best if you learn about your lease terms and agreements before being detained or deported.

If the lease is a written lease, the terms of the lease govern termination and the recovery of personal property at the leased location.

If the lease is not in writing, then the state, county and city statutes will govern the landlord-tenant relationship.

If your lease is not in writing, you may want to consult with an attorney. There are many organizations that provide tenant-landlord legal advice. For example, you can:

- Reach out to local law schools and ask if they have free housing clinics; or
- Reach out to organizations such as the Housing Rights Center or the Legal Aid Society and ask where you can get free legal advice.

Remember, even if these organizations cannot help you themselves, they may be able to point you in the right direction. You do not have to try and understand everything on your own!

Terminating a Residential Lease

If you live alone, or if everyone in your household will be moving out, you will likely want to end your lease. Your written lease or local law will regulate how to properly end your lease. Most leases require that you give your landlord a minimum of 30 days' prior notice that you will be terminating your lease. This notice will likely need to be in writing. Depending on your arrangement, you may need to give your landlord more or less notice.

If the term of the lease has not run out or ended, it is possible that you will be responsible for finding a new tenant or paying the remainder owed on the leased term.

Make sure you discuss your situation with your landlord as early as possible.

Be aware that if the tenant/renter does not give proper notice to the landlord regarding termination of the lease, and/or if an individual refuses to pay rent when it is next due, the landlord may take the following steps:

1. Demand payment from any tenant signer, co-signers or guarantors on the lease;
2. Start the eviction process by filing a request for payment and eviction with the local applicable court, which will include serving the renters with notice of a hearing, and the related court processes;
3. Eviction of the tenant/renter; and
4. Obtaining a judgement against the tenant/renter (and any guarantor not providing payments due) for rent and obligations past due, which can have a negative impact on the renter's, co-signer's, and guarantor's credit history and reporting.

If it is possible that you may not personally be available to make arrangements to terminate or revise your lease with your landlord, appoint a trusted legal representative to make these arrangements on your behalf.

Right to Enter

The circumstances and process by which you end your lease may determine your right to enter the property later to claim your belongings or retrieve mail. If you are providing notice to terminate the lease you should plan to have all items removed by the last day covered by your rent payment. If you are facing eviction due to non-payment of rent, be aware that written notices from your landlord or the courts may stipulate specific deadlines, and be sure to review such documents and notices carefully and seek legal help if needed.

If you do not remove your personal belongings within a reasonable time, you may owe the landlord for expenses associated with storing or disposing of that property. Do not assume that you will be allowed to enter the property after your lease is terminated.

Whenever possible, try to get all agreements with your landlord documented in writing.

To avoid complications down the line, you should make arrangements for the safekeeping of your personal items. For example, you can arrange for a trusted person to have keys so someone can remove personal property within a reasonable amount of time, if you are detained or deported. Submit a change of address form with the post office as early as possible so that you can forward your mail – do not expect your landlord to hold or forward your mail for you.

Continuing a Lease

You may want to continue your lease, especially if you have family members or friends living in the residence who are staying in the U.S. In this scenario, there are a few options:

- **You can continue the original lease.** This often will require the landlord's consent because you will no longer occupy the space.
- **You can terminate the lease,** and the remaining occupants can start a new lease with the landlord's permission.
- **You can assign or sublet the lease.** Be aware that traditionally, when a lease is sublet the individual who originally signed the lease with the landlord directly will still be ultimately responsible for the payments. In addition, subletting is prohibited under many statutes and written leases, and can lead to eviction of the sublessor.
- **Planning ahead.** If it is possible that you may not personally be available to make arrangements to terminate or revise your lease with your landlord, appoint a trusted legal representative to make these arrangements on your behalf.

In all continuing lease scenarios, open and honest communication with the landlord is key.

Checklist: Residential Leases

- ☐ Find out if you have a written lease. If so, your lease is governed by that document. If not, your lease is governed by the local law.
- ☐ Coordinate your going-forward plan relative to the lease with any co-signers on the lease, and any guarantors on the lease, as each of these parties will have obligations under the lease, as well as with any other persons living at the leased location.
- ☐ If it is possible that you may not personally be available to make arrangements to terminate or revise your lease with your landlord, appoint a trusted legal representative to make these arrangements on your behalf.
- ☐ If you want to terminate your lease, find out how much notice you are obligated to give your landlord, whether you will have to pay the remaining rent due under your lease, and how much time you will have to retrieve your personal belongings from the leased location.
- ☐ Reach out to local organizations and law schools if you need legal advice.
- ☐ Arrange for a trusted person to have keys to ensure that someone is able to remove your personal property if you are detained or deported. Remember that you have the right to enter your home to remove your property within a reasonable time, likely three days or less, after a lease is terminated. If you fail to remove property within a reasonable time you may owe the landlord for expenses associated with storing or disposing of the property.
- ☐ If you have friends or family members who wish to continue your lease you have three options:
 - ➔ Continue the original lease with the landlord's consent;
 - ➔ End the original lease and enter into a new lease with the landlord's consent; or

- ➔ “Succeed” the lease through an assignment or sublease from you. Check your lease terms regarding subleases and assignments.
- ☐ Update your mailing address with the US Postal Service from your old address to a new address.
 - ➔ See, generally: <https://moversguide.usps.com>
- ☐ Contact any billing parties to update your mailing address, and contact utility services to end any applicable utility services if they are no longer needed at the leased location.