

Ways to break your lease without falling afoul of the law

PW talks to experts to find out how to terminate a tenancy contract midterm without legal hassles

By Hina Navin
Special to PW

You did not rent an apartment to end a lease midway, but sometimes life's abrupt circumstances may lead to a situation where you feel this is the only alternative you have in your current scenario. There are a number of consequences that you may have to deal with due to your decision to move out early from an agreement and that can affect your creditability if you don't communicate aptly with your landlord. "Unless both the landlord and the tenant agree to terminate the lease agreement, tenants cannot break the agreement mid-term," says Saeed Al Qatami, CEO, Deyaar Development PJSC.

There may be different reasons a tenant may want to break a lease. "A tenant generally decides to break a lease either because the residence visa is terminated before the end of the lease or if a tenant wishes to return to the homeland/migrate to another country or because the tenant cannot keep up with the regular lease payment," says Qatami.

Ending a lease before time is usually an expensive and difficult process, so handle the situation tactfully to be in control. PW finds out what tenants must expect and how they should prepare themselves during an unexpected event.

Breach of contract

Landlords are responsible to maintain their properties well, so that tenants can live in a safe and functionally

sound environment. However, if any landlord has failed to address a tenant's request to fix major defects or to keep the property in habitable condition, then this constitutes a breach of contract. "Tenants may seek to terminate their lease where there are problems with the property," says Siraj Ahmed, Legal Consultant and Of Counsel to Al Nukhbah Law Firm.

He adds, "A tenant, by following applicable procedures, can properly terminate a lease in circumstances where the landlord has breached his or her obligations to the tenant, including duty to deliver the property in good condition and/or to maintain the property and repair any significant defects that materially affect the tenancy."

However, tenants should not assume that they are entitled to simply walk away from a lease because the landlord has not fulfilled his or her duties. Ahmed, says, "Tenants need to abide by the proper legal channels to claim damages and/or have the lease terminated. It's important to follow the lease provisions to put the landlord on notice to have repairs made, and if the landlord fails to do so, then to lodge a complaint with the authorities [e.g., Rent Committee] to have the lease terminated and to reclaim the tenant's post-dated cheques, if any." Additionally, it will help tenants to keep proof of all correspondences with their landlord along with pictures of the damaged or faulty



1,000

Dirhams is the penalty on the tenant for breaking the lease

unit as evidence to support their case.

Check the contract

Review the contract to know all the terms and condition. Tracy Pullock, Associate at Taylor Wessing (Middle East) LLP, says, "The current landlord/tenant laws in Dubai do not provide for early termination by the tenant. Therefore, the tenant should firstly look at the provisions of the lease, which should provide for the tenant's rights and obligations in the event of early termination. If the lease is silent on the point, then any agreement with regard to breaking

the lease must be negotiated with the landlord."

Early termination clause

Tenants need to make it clear up front that they require an early lease breaking clause and the reasons for it to be included in the contract, advises Pullock. She says, "There are a number of reasons why a tenant should insist on an early termination clause in the lease, including the fact that the majority of tenants in Dubai are expats who may have to move out in the middle of a tenancy period. Gone are the days when every tenant in Dubai had his or her rent paid by the employer. We are seeing more and more tenants covering this expense themselves and as a result are also seeing more problems of retrieving rent paid upfront or post-dated cheques. An early termi-



6 steps to a clean break

1. Look for an early-termination clause in the lease.
2. If there is no clause, negotiate an early exit with the landlord.
3. Give a reasonable notice period of about two to three months.
4. Allow the landlord to show the property to prospective new tenants at least for the last one month.
5. Pay a termination fee, normally equivalent to a two-month rent, or as negotiated with the landlord.
6. Reclaim all your post-dated cheques and collect any security deposit from your landlord.

Picture: Corbis

✦ Tenants are advised to maintain good relations with their landlords and to talk to them as soon as they need to terminate the tenancy contract

nation clause in the lease should be reasonable and should allow the landlord enough time to find a suitable replacement tenant without suffering significant losses."

Know the procedure

A lease is a commitment with financial obligations and when you decide to move out of the property before time expect to shell out some money. Qatami adds, "The early termination of a contract has to be negotiated between the tenant and landlord. In the event that the tenant wishes to vacate the property ahead of the expiry of the contract, the landlord should be given a two-month notice, and a penalty of up to two months' rent. In addition, a penalty of Dh1,000 is levied on the tenant for breaking the lease. The landlord or the tenant

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cannot unilaterally terminate a due and valid tenancy contract. Both parties must agree on such termination or execute it in accordance with the provisions of the law. Although the leasing rules in Dubai are pro-tenant for the most part, non-adherence to

these conditions can lead to legal consequences."

Talk to the landlord

Every landlord has a different reaction to a tenant's early termination. Speak with your landlord at the earliest when you know you have to leave and explain your situation in detail. Many landlords understand tenants' issues and are willing to work something out with their loyal and good tenants to avoid or reduce losses at both ends. Ahmed says, "Lease agreements are private contracts and are theoretically open for negotiation [subject to applicable law], although with larger developers or landlords, the lease terms are usually not subject to modification and thus remain uniform for all tenants."

He adds, "In situations, where a landlord is open to negotiation, a tenant may try

to negotiate the amount of a break fee [for early termination]. The tenant can try to convince the landlord by underscoring that the market is picking up, and the landlord would likely end up benefiting from an early termination, which would in turn give the landlord the right to rent out the property for a higher price. If the landlord doesn't agree, the tenant can try to negotiate a reduction in the break fee in the event the landlord is able to re-rent the premises after an early termination."

Pullock adds, "Once the tenant's move-out date has been agreed and finalised then the landlord should ensure, on vacation of the property, that the tenant is handed back all of his or her post-dated cheques and/or a pro rata share of the rent paid. The landlord will also need to return the tenant's secu-

rity deposit once he or she is certain that the property has been left in the condition in which it was first rented to the tenant [save for reasonable wear and tear] and that the utilities have been paid by the tenant up to date."

Other dos and don'ts

Qatami advises tenants to avoid any kind of conflict with the landlord. The tenant should not discontinue rental payments without giving prior notice to the landlord and should not vandalise the property in any manner. In addition, it is good to maintain a record of communication with the landlord and negotiate mutually amicable terms of termination that can reduce the financial burden on the tenant. Lastly, pay up all dues agreed upon at the time of initiation of the contract, unless waived off by the landlord. ■