

# How to End a Tenancy Early

There are three types of tenancies in Wisconsin:

- Term tenancies are those which have a specific start and end date. Residential term tenancies are often one year long, though they do not have to be.
- Periodic tenancies (e.g. month-to-month) do not have a specific end date, but they do have recurring rent rental periods (usually the time between rent payments).
- Tenancies-at-will have neither an end date nor a recurring rental period.

**Example:** a tenant agrees to exchange as-needed maintenance work for lodging.

## Periodic tenancies and tenancies-at-will

Periodic tenancies and tenancies-at-will are both relatively easy to end by either the landlord or the tenant, because they usually only require 28 days' notice to terminate. It may occasionally be longer or shorter than that. For instance, if you pay rent on a weekly basis, you would only have to give a weeks' notice. If your month-to-month rental agreement requires you to give more than 28 days' notice, then you must give whatever notice is required in the rental agreement. For the most part, though, periodic tenancies and tenancies-at-will require 28 days' notice.

Requiring 28 days' notice does not mean you need to pay only 28 more days worth of rent, however. Periodic tenancies must end on the last day of the rental period. For month-to-month tenancies where rent is due on the 1st of the month, this puts the last day of each rental period as the last day of each month. So, if you give your landlord a 28-day termination notice on April 4th, you'd be responsible for rent until the end of May. Why? Because a 28-day notice given on April 4th ends on May 1st.

But a periodic tenancy must end on the last day of a rental period. The end of the May rental period is May 31st, not the 1st. So the notice cannot be effective until the end of May.

**Note:** You start counting the 28 days on the day the notice is served. See [How to Deliver a Termination Notice Legally](#) (below) for more information on Serving Notice and Counting Days

This method of calculating the 28 days applies to your landlord too. So if they give you a 28 day notice on June 6th, you are not required to move on July 4th, for the same reason as noted above. Instead you are allowed to stay until July 31st. If you want to stay, that is your right. If you'd rather leave on July 4th, you are entitled to accept the early, and "incorrect", termination date in the notice.

Even so, with a periodic tenancy or tenancy-at-will, you are generally not responsible for more than one additional month of rent after you give your termination notice.

## **Term tenancies**

Term tenancies are contracts to rent until a certain date. You are generally responsible to pay rent until that date unless the landlord agrees to let you out of the contract. If you sign a year-long lease but need to move out right away, does this mean you could be responsible for a years' worth of rent for a place where you aren't even living? Maybe! However, there are some exceptions and steps to take to hopefully avoid this.

### **Landlord's Obligation to Find a New Tenant**

Landlords are required to make reasonable efforts to re-rent the property if the tenant breaks the lease early, and cannot make the tenant pay for rent they could have collected from a new tenant had they used reasonable efforts to find one. This applies even if you are not able to take advantage of any of the below options and must simply break the lease. If the Landlord is taking "reasonable" steps to re-rent, the tenants are only liable for rent until the property is re-rented. "Reasonable efforts" generally means whatever the landlord normally does when a unit is vacant and they are actively trying to rent it.

## **Early Termination Clause**

Landlords may include an early termination clause in the lease, specifying terms and conditions for tenants to end the lease early, often with penalties. It's worth reading through your lease to see if it includes this clause. Even with penalties, it may still be cheaper than paying rent while the landlord finds another tenant.

## **Mutual Agreement**

You might be able to get the landlord to sign an agreement to terminate your tenancy early. The landlord may be more likely to agree if you have something to offer (such as money) or leverage (if you have to stay in the apartment, you'll be forced to call the building inspector about some serious defects, which would then require expensive repairs).

## **Prohibited lease provisions**

There are ten provisions that, just by being included in a lease, make that lease void and unenforceable by the landlord (the tenant can still enforce the lease, however). Those ten provisions are listed in our [All About Rental Agreements](#) article. If your lease is unenforceable against you for this reason, your tenancy is then a Tenancy-at-Will, and you still need to give 28 days' notice.

## **Unreasonable Living Conditions**

You may have the right to terminate your tenancy without penalties if the landlord fails to address hazardous or unsafe living conditions. If your rental unit is unlivable and the landlord can't or won't make repairs in a reasonable amount of time, you can choose to move out of the unit. Once you move out, assuming the unit is truly uninhabitable and you gave the landlord notice and reasonable time to make the repairs, you are no longer responsible for the rent. This is called "constructive eviction", and it is a defense that you can use in court if your landlord sues you for back rent after you move out. In addition, if the landlord does start to make repairs, but the inconvenience to you "by reason of the nature and period of repair, rebuilding, or elimination would impose undue hardship" on you, you can also move out, and owe no further rent.

## **Lack of Peaceful Enjoyment**

The landlord has a duty to ensure that you can peacefully enjoy your unit. If there's a problem with a person that prevents you from peacefully enjoying your unit, and the landlord knows about the problem and has the ability to take some action to solve the problem but doesn't, and the problem lasts for a significant length of time, you may be able to terminate your tenancy without being responsible for any more rent.

**Example:** Your downstairs neighbors frequently have violent fights, loud parties at all hours, and sell drugs out of their unit. You have informed your landlord about this several times over the course of several months, but the landlord has never taken any action, such as speaking to your neighbors or evicting them. You no longer feel safe sleeping in your apartment and can't get any work done due to the noise. You may be able to move out early without being responsible for future rent.

This is considered a form of constructive eviction, and is risky, because you are relying on a judge or court commissioner agreeing with your assessment of the situation. If you need to use this approach, do make sure that your complaints to the landlord are put into writing, so you can show the court those written notifications, AND write your landlord that you are going to take this action of moving out early unless they take steps to cure the problems you have noted in your letter(s). Think of it as like a five-day notice to pay or vacate, except the tenant is serving the notice on the landlord telling the landlord, "cure this lease violation in X days or the lease is void and I will move out." Then if the landlord fails even after getting such a letter, this strengthens your claim to this right to move out.

## **Stalking, Domestic Violence, or Sexual Assault**

The Safe Housing Act allows victims of domestic violence, sexual assault, stalking, or child abuse to terminate a tenancy early if they feel remaining on the premises puts them at imminent risk of physical harm from another person (usually another tenant).

To use the Safe Housing Act to terminate a tenancy early, write a letter to the landlord stating you want to end your tenancy under Wisconsin Statute § 704.16 because you and/or your child(ren) face an imminent threat of physical harm. You are also required to provide a certified copy of at least one piece of documentation.

Accepted documentation includes a restraining order protecting you or your child(ren), a condition of release ordering the person not to contact you, and a criminal complaint alleging that the person has sexually assaulted or stalked you or your child(ren).

**Note:** If you rely upon a restraining order, the restraining order must be the one ordered by a Judge. When you apply for a restraining order, a court commissioner issues a temporary order right away which only lasts until the hearing before a judge, which is scheduled quickly. That temporary order is not a sufficient basis to move, you need to get the final order from a judge, which typically is ordered at the hearing. See our [article on domestic abuse restraining orders](#) for more information.

Under this rule, you would still be responsible for rent for up to two months: the month that you gave notice or left (whichever is later) and the month after that.

## **Active Military Duty**

The Servicemembers Civil Relief Act (SCRA) allows you to terminate a rental agreement early if:

- You enter military service OR
- You receive orders to either change station or deploy for 90 days or more

This applies even if you have others, such as children or a partner, living in the unit or on the lease. To use the Servicemembers' Civil Relief Act to break a rental agreement early, you must give written notice of your intent to terminate your tenancy, along with a copy of your military orders, to the landlord. Once the notice is mailed or delivered, the tenancy will terminate on the last day of the month following the month in which the notice is delivered.

## **Tenant Death**

If a tenant dies, assuming there are no surviving co-tenants, their term tenancy is terminated either 60 days after the landlord learns of the tenant's death or when the term expires, whichever is sooner. If the deceased tenant's estate surrenders the unit before the end of the 60 days, the landlord has a duty to try to re-rent the unit.

# **Invalid Reasons for Early Tenancy Termination**

Other than the above, you generally can't end a term tenancy early without remaining responsible for rent until the unit is re-rented. This is true even if you have very good reasons for early termination, such as buying a new house, or relocating for a new job or to take care of a sick family member.

## **What happens if at the end of a term tenancy, I stay and keep paying rent, and the landlord accepts the rent?**

In this case, the term tenancy turns into a periodic tenancy. Assuming rent is paid on a monthly basis, it turns into a month-to-month periodic tenancy. All of the other terms of the original lease still apply. One place that gets tricky is with notice requirements. Let's say the original lease required the tenant to give 60 days notice to end the lease. Once you've shifted from a term tenancy to a month-to-month tenancy, that 60 days notice provision in the original lease is still enforceable. And that's important, because the default notice required to end a month-to-month tenancy is only 28 days. So you'll be in a month-to-month tenancy, but you will need to give over twice the normal amount of notice to end the tenancy.

## **How to Deliver a Termination Notice Legally**

It's important for renters to give the termination notice in the correct way to make sure it is valid. Options include:

### **In Person**

Give a copy of the notice letter directly to the landlord, property manager, person who has been receiving rent, or to a competent person apparently in charge of the landlord's regular place of business or the place where the rent is payable. If the landlord is a corporation, you can hand the termination notice to an officer, director, registered agent or managing agent. If the landlord is a partnership, you can hand the termination notice to a general partner or managing agent. Always keep a copy for yourself of the exact document you gave in person. If you can get the recipient to

sign and date your copy, great. If not, then you should sign and date it and write on your copy who you served. This is not required, but is helpful in order to establish when you served it.

## **Leave a Copy**

Leave a copy at the landlord's residence with a competent family member aged at least 14, who is informed of the contents of the notice. If the landlord is a corporation, you can leave it with an employee in the office of an officer or agent during regular business hours. If the landlord is a partnership, you can leave it with an employee in the office of a partner or agent during regular business hours, or leave it at the residence of a general partner in the presence of a competent family member aged at least 14, who is informed of the contents of the notice. Follow the same points about keeping a copy and noting the date of delivery, as mentioned above.

## **Registered/Certified Mail**

Send a copy via registered or certified mail to either the landlord at their last-known address, or to the person who has been receiving rent or managing the property at that person's last-known address.

The benefit of delivering the notice by the registered/certified mail option is that you have documented proof that you sent the notice and the date you sent the notice if a dispute later arises. The potential downside is that it can take longer than delivering in person or leaving a copy. If you mail the notice within the state, then the notice is 'served' the second day after the date of mailing. If you mail the notice across state lines, then the notice is 'served' the fifth day after the date of mailing. This should be taken into account when counting days.

**Example:** You want to end a month-to-month tenancy on April 30th. You mail your 28-day notice to your Wisconsin landlord on April 1st. It is considered 'served' on April 3rd. The 28th day from April 3rd would be April 30th, which is the last day of the rental period, so your tenancy would end at the end of April as planned. Had you mailed your notice even one day later, your tenancy would not end until the end of May.

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Last updated on March 07, 2025.

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