

Kansas Legal Services

A non-profit law firm and community education organization helping low and moderate income people in Kansas



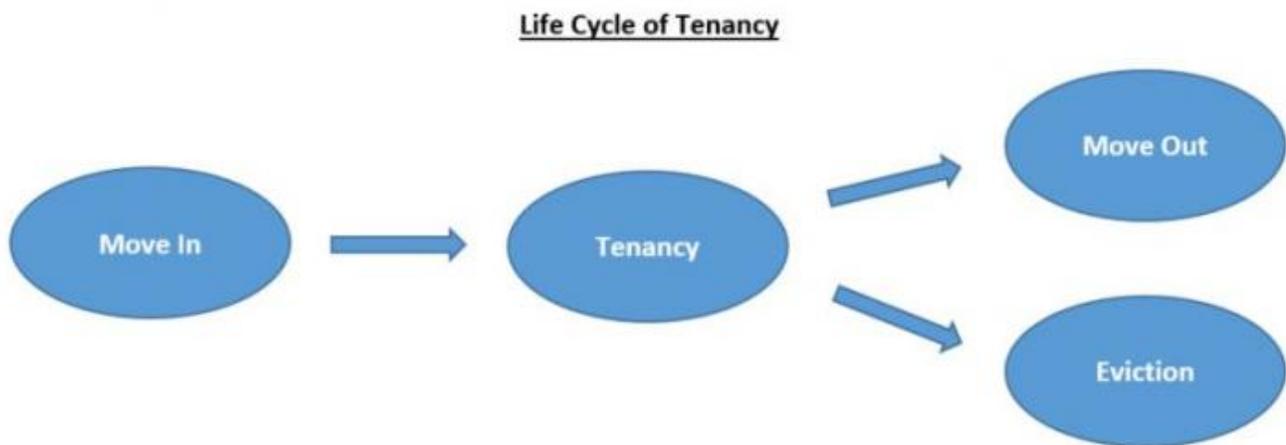
www.kansaslegalservices.org

Kansas Tenant Issues and Rights

This webpage is dedicated to explaining the issues that Kansas tenants might face, as well as their legal rights before, during and after the tenancy.

Additionally, Kansas Legal Services has prepared up-to-date legal forms and resources to support tenants. When the information below refers to sharing notices to your landlord or filing legal documents, please check [this link](#) for an example. More detailed information on the topics below can be found in the [Kansas Tenant Handbook](#).

Here is a helpful pamphlet prepared by the Kansas Bar Association with education about **your legal rights in eviction.**



I. Moving In

a.

Lease and other documents

- i. Your lease is an agreement to rent between you (the tenant or renter) and the landlord. This agreement lays out the terms of the contract between you and your landlord. It sets the ground rules for your tenancy.
 - ii. Whenever you have a dispute with your landlord, check your lease to find out whether the dispute is addressed there. Usually, disputes with your landlord will be addressed by the lease. If not, the law fills in the gaps.
 - iii. Multiple tenants may be listed on the same lease agreement, but if your co-tenant fails to pay or moves out before the lease, then you will still be obligated to make full rent payments. A separate written agreement among co-tenants can help avoid such issues from coming up and help address them if they do.
 - iv. Always keep a copy of your lease!
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- b.

Security Deposit

- i. When you sign your lease, your landlord can require a security deposit. This deposit provides security to your landlord in case you damage the property during your tenancy – but be sure to read your lease for the specifics.
 - ii. The amount your landlord can charge for a security deposit depends on what type of place you are renting.
 1. If your unit is unfurnished, the landlord can only ask for up to one month's rent.
 2. If your unit is furnished, the landlord can ask for up to one-and-a-half month's rent.
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- c.

Pet Deposit

- i. If you have a pet, your landlord can require an additional deposit that amounts to one-half month's rent.
 - ii. But if you have a certified service or assistance animal, federal law prohibits your landlord from charging an additional deposit for your service or assistance animal. You are still responsible for any damage caused by your animal, even though your landlord cannot charge an up-front deposit.
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- d.

Inspection

- i. You should have a move-in inspection within 5 days after your lease starts. During this inspection, you and your landlord go through the property to identify and document any damages you see.
- ii. After both you and your landlord examine the property for damages, you will both sign a document listing all of those damages.

- iii. If the landlord promises to fix any of the problems you find during your inspection, make sure you get this promise in writing! Even if the promise is via text or email, it is better to have those promises recorded.
- iv. Keep a copy of the move-in inspection list with your lease. This document could be incredibly important upon moving-out. When you move out, the landlord will again examine the property and identify any damages. Unless you can prove those damages were there before you moved in, your landlord will probably take the cost out of your security deposit.
- v. Pictures can help supplement your move-in inspection list, but please make sure you have a copy of the list as well.
- vi. If your landlord will not do an inspection with you, go ahead and do one yourself. Be sure to complete the inspection within 5 days of moving in. A sample form can be found at [this link](#). Once completed, send a copy directly to your landlord.

II.

Tenancy

a.

Habitability

i. Landlord obligations and paying rent

1. Your landlord is responsible for providing livable conditions. This usually includes things like running water, plumbing, heat, electricity and other similar essentials. Whether your landlord is responsible for less significant issues is determined by the lease – be sure to keep a copy!
2. As tenant, you are obligated to pay your landlord monthly rent. This obligation to pay rent is separate and distinct from your landlord's obligation to provide a livable property. In other words, if you withhold rent because your residence has serious maintenance or utility problems, your landlord can still try to evict you for nonpayment of rent.
3. Further, the landlord is not responsible for damage you cause to the property or any damage caused by your family, guests or pets. For example, if your water is shut off because you were unable to pay for utilities, the landlord is not at fault. As another example, if your sewer backs up, the landlord would be responsible for maintenance – though if you caused the problem, your landlord can require you to pay for the repairs.

ii. Maintenance

1. Landlords are obligated to provide maintenance and repair conditions that make the property unlivable. Your landlord might also promise to provide maintenance for other issues, but that will be addressed by your lease.
2. If your apartment needs maintenance, prepare a list of repairs that need to be made. Then, send that list of repairs to your landlord, with a request that your landlord make the repairs by a certain date. It is always best to make these maintenance requests in writing.
3. As tenant, you may also make the repairs yourself, but only if you sign a

separate agreement with your landlord to undertake the repairs. The cost of the repairs can be taken out of your next rent payment (or some other adequate compensation). Notably, if work must be completed to comply with building codes, the landlord should make those repairs rather than the tenant.

iii. Uninhabitable living conditions

1. Sometimes, your landlord may not provide livable conditions. Even after you provide them a specific list of needed repairs, they may fail or refuse to make repairs, rendering your home unlivable. In these circumstances, you can sue your landlord or terminate your lease. But it is important that you not withhold rent before going to court or terminating your lease. If you do withhold rent – even if your home is unlivable – you could have trouble collecting back rent or pursuing your counterclaims. Instead, we recommend checking with your local housing code inspector (if one exists), before choosing one of the options below.
2. Before anything else, you should check with your local housing authority, if one exists. In many jurisdictions, the local government has inspection authority to enforce their housing and building codes. If you can make contact with them, they might be able to help pressure your landlord into making repairs.
3. You may be able to terminate your lease. To do so, you must give your landlord 30 days' notice that you intend to terminate your lease agreement because of the unlivable conditions in your residence. Also, the termination date has to fall on a periodic rent-paying date, i.e., if you usually pay rent on the first of the month, your termination date has to be the first of the month – and also give 30 days' notice. Make sure you give your landlord a written notice and that you keep a copy for your records. Once your landlord receives that notice, they have 14 days to begin repairs, otherwise the lease terminates on the date you specified.
4. You also may be able to sue your landlord. If your residence is unlivable, you may bring a lawsuit against your landlord to correct the unlivable conditions and bring your residence into compliance with your lease. You can also recover any damages you have sustained, including harm you suffered from the unlivable conditions as well as rent that you paid to the landlord but should not have had to pay because of the unlivable conditions.

b.

Housing discrimination

- i. The federal Fair Housing Act prohibits discrimination in the sale or rental of housing. This means your landlord cannot discriminate against you or other tenants on the basis of race, gender, religion, familial status, disability or ethnicity. For more in-depth information, please check out [this link](#).
- ii. For tenants with disabilities, the landlord must provide reasonable accommodations. This means that your landlord should not ask discriminatory

questions upon application and definitely should not deny housing merely because a prospective tenant has a disability. It also means your landlord should provide reasonable accommodations to tenants with disabilities in terms of the rules and regulations the landlord sets as well as the practices implemented and services provided. So long as a request for reasonable accommodation is not “unduly burdensome,” your landlord must grant that request under federal law.

- iii. But even under the Fair Housing Act, your landlord can consider things background issues such as criminal history, credit rating and financial stability when deciding whether to rent to the prospective tenant.
- iv. If you believe you have suffered discrimination when attempting to buy or rent a residence, you can file your fair housing complaint online with the federal Department of Housing and Urban Development at [this link](#). You may also find resources and support with the Kansas Human Right Commission at [this link](#).

c.

Landlord right of entry

- i. Your landlord has a right to enter the property that you rent from them. Normally, your landlord can only enter after giving you reasonable notice (often 24 hours), and entry into the residence should occur during reasonable hours (not too early or too late in the day). If your landlord enters your residence without providing you notice – and assuming there was no emergency – you should submit a written demand to your landlord that they not enter without ensuring you were given notice.
- ii. In the case of emergency, your landlord can enter your residence any time and without notice.
- iii. Because your landlord has certain rights to enter your residence, it is important to make sure they have updated contact information for you in case you are not home when they need to enter. Further, your landlord may be entering your residence to conduct maintenance or even address pests, so it is important that you tell your landlord whether you have any pets and what sensitivities they may have.

d.

Rules and regulations

- i. Your landlord is allowed to implement rules and regulations for the residence (and any surrounding property they own or manage). These rules and regulations should be listed in or attached to your lease. Be sure to read them carefully before agreeing to the lease. There may be rules and regulations – such as no pets or no noise after certain hours – that will be difficult for you to follow depending on your circumstances. Reviewing the rules and regulations before signing the lease agreement can be crucial to avoiding problems with your tenancy.
- ii. Any rules and regulations implemented by the landlord must be applied equally

- to all tenants.
 - iii. Further, the rules and regulations should be geared toward providing a benefit to the tenant's welfare or protecting the landlord's property. In other words, the tenant must follow any rules and regulations that are fair, reasonable and provided to the tenant when the tenant enters into the lease agreement.
 - iv. Your landlord can also change the rules and regulations that apply to your tenancy after you sign the lease agreement, but your landlord must give you reasonable notice of the change. This notice could include placing a written document in a common area or taping it to your front door.
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- e.

New tenants

- i. Always check with your landlord before allowing someone else to move in with you who was not on the lease agreement. If someone moves in with you, and the landlord does not know it, you might be in violation of the lease agreement. In such circumstances, your landlord can probably begin the eviction process.
 - ii. If you want to sub-lease your apartment to someone else, you should read your lease agreement carefully. Some leases will completely prohibit sub-leasing the property, while others will set guidelines for how to do so, such as written consent from the landlord.
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- f.

Natural disaster

- i. Unfortunately, our homes can be struck by fire, flood, tornado or some other natural disaster. When a natural disaster renders your home unlivable – either by destroying it completely or substantially impairing your ability to live there – you do not have to stay there. You also have the option of terminating your lease if you are unable to return.
- ii. After leaving the property, you should tell your landlord within 5 days whether you want to terminate the lease.

III.

Eviction

a.

No self-help by landlord

- i. No matter the circumstances, your landlord is not allowed to evict you by themselves. Whenever your landlord wants to evict you, they must either have your agreement or get a court order.
 - ii. This means your landlord cannot try to evict you by shutting off the utilities or changing the locks. If this happens, you may be able to sue your landlord for damages up to one-and-a-half months' rent.
-
- b.

Nonpayment of rent

- i. Whenever your rent is late, your landlord has the option of beginning the eviction process. To do so, your landlord must give you a “3-Day Notice” document that explains your rent is past due and that you have 3 days from the date of the notice to pay any rent that is due. So long as you pay your rent within 3 days (or 72 hours) of the notice, you will be caught up and the landlord cannot pursue eviction.
 - ii. Even after the 3 day period, you can still offer to pay back the rent that is owed to your landlord. If your landlord accepts the payment without reservation – and you are all caught up – then your landlord cannot file for eviction.
 - iii. If your landlord tries to dodge payment, you can mail them the rent due. This will provide a verifiable and dated record of when you paid your rent. If you decide to leave your rent with the landlord or at their office, be sure to get a receipt of payment. At the very least, take a picture of you dropping off rent to confirm the date of payment.
- c. _____

Material noncompliance with lease

- i. Your landlord may also believe you are not complying with the lease agreement, such as by having a pet without permission or using the residence contrary to the lease terms. To evict you, the landlord must provide a notice to you that you have 14 days to correct the problem, otherwise you will have to vacate 30 days after you get the notice. In other words, the lease will terminate 30 days after the notice date, unless you can correct the problem in 14 days.
 - ii. If you receive such a notice, you have 14 days to begin correcting the problem identified by the landlord. Once you have corrected the issue, be sure to send written notice to your landlord and keep a copy for your records.
 - iii. Significantly, if you have another breach of the lease agreement of the same (or similar) type after that 14-day period, your landlord has the right to terminate the lease, even if you corrected the first issue. Your landlord will need to provide you 30 days’ notice before the lease is terminated, but you cannot avoid lease termination by trying to address the second breach.
- d. _____

Terminating tenancy

- i. Your landlord might try to terminate the tenancy at the end of the natural lease term. In other words, your landlord may not allow you to renew your tenancy at the end of the lease. Normally, your landlord’s right to terminate the tenancy will be spelled out in the lease agreement. And in most cases, your landlord will have to provide you at least 30 days’ notice that they plan to not renew your lease.
- ii. Read the lease carefully. Many leases will allow landlords to only give 30 days’

notice to terminate the lease, but will require the tenant to provide even more time (such as 60 days' notice) before terminating the lease.

- iii. If you are on a month-to-month tenancy, without a lease agreement, both you (as tenant) and the landlord can terminate the tenancy with at least 30 days' notice. Also, the termination date has to land on a periodic rent-paying date, i.e., if you usually pay rent on the first of the month, your termination date has to be the first of the month – and also give 30 days' notice.
- iv. Your landlord can bring a lawsuit to evict you if you stay past the date the lease is terminated.

e.

Legal proceedings

i.

Notice

1. Before beginning legal eviction proceedings, your landlord must provide you 3 days' notice to leave the residence. This means your landlord must wait at least 72 hours after providing you this notice before filing papers to start the eviction lawsuit.
2. This notice is not a court document and does not have to be notarized.
3. This 3 day notice to leave the residence is separate and distinct from the other types of notice your landlord must provide you concerning nonpayment of rent, material noncompliance with your lease or termination of your lease. To bring a successful eviction lawsuit, your landlord must provide both types of notice. Oftentimes, though, your landlord will provide one document that provides both types of notice, i.e., a notice that you have 3 days to pay rent or vacate the premises, otherwise the landlord will seek eviction. This type of dual notice is sufficient under the law.

ii. Petition and summons

1. After providing notice, your landlord can start an eviction lawsuit by filing a petition to the court, which generates a summons to you to participate in the legal proceedings. Your landlord will need to serve both the petition and the summons on you to proceed – usually through personal service, but also sometimes via mail or by posting on your door.
2. The petition is a legal document filed by the landlord that explains why you are being evicted, the amount of rent you owe (if any) and any other damages claimed by the landlord. In this document, the landlord will ask the court to order you to vacate the property and pay any damages they allege you owe. If at all possible, you should respond to the petition by filing an answer (described below).
3. The summons is a document generated by the court that sets a hearing date and time. You must show up to this hearing at the date and time listed on the summons. Be sure to review the summons carefully because the hearing date and time might be only a day or two after you are served

the summons and petition.

4. Missing the court date listed on the summons has serious consequences. Your landlord will be able to take a default judgment against you – meaning the court will give them whatever they asked for, whether you agree or not. If you miss this court date, you can be evicted immediately.
5. If you cannot attend court on the date and time listed on the summons, you should contact the court immediately about seeking a continuance and follow their process to do so. However, continuances are often not allowed without the landlord's agreement.

iii. Answer and counterclaims

1. If you disagree with the petition, then you should attempt to file an answer with the court. Kansas Legal Services has developed a template answer that you can use. This answer document will clarify to the court that you contest the allegations made by your landlord and what defenses you have. When filling out the answer, it is ok to deny any allegation that is partially untrue or cannot be verified. You should also list as many possible defenses as you reasonably can. An extensive list of possible defenses is provided in the template answer.
2. In addition to your answer to the petition, you should raise any counterclaims you may have against your landlord. Your counterclaims can be included in the same document as your answer, as demonstrated by the template above. Like with defenses, you should try to raise any counterclaims that you think can be justified. Counterclaims are especially helpful because they can give you negotiating leverage with your landlord. For example, you can offer to dismiss your counterclaims in exchange for your landlord dismissing their claims (and maybe agreeing to sign a new lease). And if you proceed to trial, your counterclaims can provide a buffer against any back-rent or other damages you may owe.
3. You should call the court clerk about the best way to file your answer and counterclaims. They may suggest you mail it to them or request you drop it off at the court. Either way, you will also need to mail a copy of the answer to your landlord or their attorney. Try to do all of this before the date and time listed on the summons.

iv. Pre-trial appearance

1. An eviction proceeding has two court dates. The first court date and time will be listed on the summons. The date and time listed will be 14 days or less after the summons was issued by the court (meaning sometimes your landlord will have to request a new summons if they did not serve you in time).
2. At this first hearing, you make your initial appearance to the court. In some counties, you will appear before a judge to demand a trial. In other counties, you simply demand a trial by filling out some papers with the court. Either way, you must show up to demonstrate that you are challenging the petition. If you have not filed your answer or counterclaims beforehand, you should be able to submit your arguments at this hearing.

In that case, you should still try to file and serve your answer after the hearing.

3. At the end of this hearing, the court will set a trial date. The trial date will be set 14 days or less after the initial hearing (usually less). As tenant, you will not be able to request a continuance of this trial hearing, unless you file a bond with approval of the court.
4. If you do not show up to this first hearing, the court will likely take default judgment against you and award your landlord whatever they requested. This can include immediate eviction.

v. Trial

1. Your trial date will involve both you and your landlord presenting your cases. There will not be a jury – the trial will be conducted and decided by the judge.
2. Bring any evidence that is important to your defenses or counterclaims to the trial. You do not need to submit your evidence before the trial. But at trial, it will be crucial to properly introduce the evidence to the court. Before going to court, do your best to organize the documents that are important to your case. When you need to introduce a document at trial, you should tell the court that you are introducing an evidentiary exhibit. Then, you should explain what the evidence is, describe why it is relevant to your case and that the evidence is real and authentic (or at least a copy of real and authentic evidence).
3. At the close of trial, the judge will decide whether to grant or deny your landlord's petition, as well as address any counterclaims you raised. If your landlord wins, the judge will issue an order declaring the landlord is entitled to possession. Once your landlord has that possession order, they may request a writ of restitution, which is an official court document saying that you must vacate the residence. The writ of restitution can be enforced by the sheriff as well as a special process server. Enforcement must occur within 14 days – though sometimes it happens far more quickly, such as a matter of hours.
4. You need to be prepared to leave the residence on the day of your trial. While it is not guaranteed that you will be forced to leave that day, it is entirely possible. Once the court issues the writ of restitution, you must immediately vacate the property (with or without your possessions). If you do not, you may be arrested for criminal trespass. Consequently, it is important to make arrangements to store your personal property in case you are evicted. When the sheriff or process server comes to put you out, they will usually only give you a few minutes to pack some small belongings.

f.

Personal property

i. Storage

1. Sometimes, tenants leave behind personal property after leaving their

former residence. This might occur accidentally after formally terminating your lease with your landlord. It might also occur through eviction proceedings, where a tenant is put out before they can collect their belongings. In such circumstances, your landlord is entitled to take possession of the residence and store your possessions at your expense.

2. If your landlord takes possession of your personal property after vacating the residence, you have at least 30 days to recover those belongings – or any time before your landlord sells your belongings. To recover your personal property, you will need to pay your landlord the costs of storage as well as any other money owed, such as back-rent. Once you do that, your landlord is obligated to return your belongings. If they do not return your things, you may be able to sue them for improperly converting (i.e., stealing) your personal property.
 3. After 30 days, if you have not paid your landlord back for storage costs and any other money owed, your landlord is allowed to sell or throw away your things. Any proceeds from the sale of your personal property should be applied to storage costs first, and then to any other debts you may owe your landlord. If money is left over, your landlord is allowed to keep it.
- ii. Publication and sale
1. Your landlord has to wait at least 30 days to sell any personal property that you left behind.
 2. In addition, your landlord must also publish notice that they are going to sell your personal property at least 15 days prior to the sale. This notice should be published in a newspaper of general circulation in your county.
 3. Also, your landlord must mail you a notice of the sale within 7 days after publishing notice of the sale. In that way, you should get specific notice that your belongings may be sold.
 4. If your landlord sells your personal property without following these rules, you may be able to sue them for illegally converting your property and thus be liable to you for the cost your belongings.

IV.

Moving Out

a.

Security deposit return

- i. When you move out, your landlord must return your security deposit, unless certain conditions apply.
- ii. If you owe back-rent, the amount of rent due can be claimed from your security deposit.
- iii. If you damaged the residence or left it less clean than when you moved in, your landlord can take the cost of repair out of your security deposit. But this condition does not apply to normal wear-and-tear. If the only damage identified by the landlord is normal wear-and-tear, they should not deduct anything from your security deposit.

- iv. To recover your security deposit, you must move out entirely, notify your landlord that you have moved out, return the keys and make a written demand for the security deposit. Once you do those things, your landlord should determine the balance of the security deposit owed to you. After making that determination, your landlord has only 14 days to return your security deposit to you.
 - v. Overall, your landlord has no more than 30 days to return the portion of the security deposit owed to you after you move out and submit your written demand. If your landlord wants to keep some or all of your security deposit, they need to write to you within 30 days of moving out with an itemized list of amounts they are withholding.
 - vi. If your landlord does not return your security deposit, even after you took all the necessary steps, you may be able to sue your landlord. In that lawsuit, you could recover the portion of the security deposit due to you as well as an amount of money one-and-a-half times the amount your landlord wrongfully withheld.
 - vii. Generally, you cannot use your security deposit to pay your last month of rent. If you attempt to do so, you will forfeit your security deposit and also be liable for that month's rent. The only way for you to use your security deposit for rent is an explicit agreement with your landlord.
- b. _____

Rules for moving out

- i. Your rules for moving out should be detailed in your lease agreement. Review those rules carefully.
- ii. Most importantly, you will likely be required to give your landlord at least 30 days' notice that you will be leaving the residence at the end of your lease term. Make a note in your calendar to notify your landlord as required by your lease. Even though the lease may only last one year, your tenancy does not automatically end when the lease does. In such circumstances, you will likely be subject to a month-to-month tenancy until you properly vacate the property. For example, if you move out but do not notify your landlord, you might owe another month of rent even though you live elsewhere.
- iii. If you are already on a month-to-month tenancy, you must give at least 30 days' notice that you plan to terminate the tenancy. In addition, the date of termination must be a normal rent-paying date – if you pay rent on the first, your termination date should also be on the first (and also at least 30 days out).
- iv. When you provide notice that you will be moving out (or any time before moving out), you should send a written demand to your landlord that you want any remaining security deposit back. You should also provide a forwarding address for your landlord to send that deposit to you.
- v. When moving out, you should prepare an inspection list that mirrors your move-in inspection list. Keep this move-out inspection list, along with a copy of your lease and the move-in inspection list. It is also helpful to take photos and video of the condition of the property when you move out. These documents, photos

and video could be important to receiving the proper amount of your security deposit.

c.

Service members

- i. If you have enrolled in military service or are an active service member, you have the right to terminate your lease agreement so long as certain conditions are met. Even if the lease agreement does not allow you to terminate the lease, you may do so if you receive permanent change of station orders, or an order to deploy with a military unit or if you are called to support a military operation lasting at least 90 days.
- ii. If one of these conditions arises, and you need to break your lease, you should immediately notify your landlord and provide them with a copy of your service orders. This can be done through hand delivery or, if necessary, through certified mail or a private business mail carrier like UPS or FedEx.
- iii. Once you deliver or mail the notice to your landlord, your tenancy will terminate 30 days after the day that rent is next due under your lease agreement. For example, if rent is due on June 1, and you provide notice to your landlord on May 28, then the tenancy will terminate on July 1. In this scenario, you are responsible for rent for the month of June and the lease ends at the end of the month.
- iv. But if you were on a month-to-month tenancy, you may terminate the lease with only 15 days' notice to your landlord.

Be sure to provide your landlord with a forwarding address in case they need to return your security deposit or otherwise contact you about the tenancy.

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