



FARM COMMONS

Lease Termination Tipsheet

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My landlord wants to end our lease. Can the landlord do that, and can I prevent it?

Any farmer who leases or is considering leasing farmland likely fears the landlord will suddenly decide to end the lease early. It's an ill-fated story that happens all the time. What, if anything, can the farmer do? This tipsheet sheds light on Minnesota and Wisconsin laws surrounding lease termination. It offers farmers some ways to prevent a landowner from unexpectedly terminating the lease and steps to take if it happens.



The ill-fated story of Farmer Kelly and her indefinite lease with Landowner Jack

We'll be referring to the following fictitious story throughout to help explain some of the legal nuances and implications of lease termination.

Farmer Kelly leases five acres of farmland from Landowner Jack. Jack is well in his 80s and hasn't used the land for over a decade. When Kelly approached Jack about leasing the land, he was thrilled. He told her she could farm the land for as long as she wanted. They agreed that \$500 a season would be a fair rate. Jack wrote out the basic terms on a scratch pad: "Jack agrees to rent Kelly five acres of his farmland located at 456 Super Lane for \$500. Rent is due on June 1." Jack and Kelly both initialed the paper.

Kelly farmed the land for two seasons, but struggled to make ends meet. In early October, she and Jack chatted about how things were going. Kelly shared her challenges and half-heartedly asked if he'd be willing to lower the rent to \$400 for the next season. She assured him that she'd find a way to make the \$500 work if he couldn't agree to the \$400. He said he'd think about it. The winter flew by and Kelly hadn't heard from Jack. Mid-April came and Kelly started prepping the fields. In early May, Jack came out and told Kelly that he'd found someone else to rent the land for \$1,000 and wished her luck finding some other land to farm the upcoming season and thereafter. What are Kelly's options?

Tip 1: Get your lease in writing

A written lease is required if the lease is for one year or more; getting a lease in writing is a wise thing to do regardless

The law in both Minnesota and Wisconsin specifically requires that leases for a year or longer must be in writing to be enforceable or upheld in court. This is because of the “statute of frauds,” which essentially requires that important agreements be in writing to prove they actually exist.

Bottom line, if you are leasing land for a year or more and want your arrangement to have legal enforceability, it must be in writing. If the rental term for farmland is less than one year, an oral lease is valid and enforceable as long as the parties have agreed to the basic terms.

Legal enforceability is not the only, or even primary, reason for getting a farmland lease in writing. A written agreement can help the parties establish mutual respect and clear expectations. Ultimately, getting the details in writing helps prevent confusion and forgetfulness, which will allow the parties to better avoid conflicts down the road.

Tip 2: Be sure to clearly specify the length or end date in the written lease

To be a valid lease, the writing must specify the basic terms including the length of the lease

A written lease does not have to be a formal contract. A scratch piece of paper could suffice; however, the writing must contain sufficient details to clearly indicate the basic terms of the agreement. In both Wisconsin and Minnesota, these basic terms include:

- Names of the landowner and the tenant
- Description of the land to be leased
- Rent amount and form (e.g., cash amount, in-kind)
- Length or time period of the lease
- Signatures of the parties

Specifying the length or time period of the lease is critical, especially when it comes to issues relating to lease termination. Is it one season, a year, 10 years, or longer? Note that in Minnesota, a lease cannot be more than 21 years and, in Wisconsin, it cannot be more than 15 years.

If the writing does not speak to the length of the lease, the lease can be terminated “at will” by either party. This generally means that the landowner can terminate the lease at any time so long as proper notice is given. In this scenario, default laws specify how far in advance a party must notify the other before ending the lease. However, why leave it to the law to decide? Why not negotiate and decide for yourself how long the lease will run?

If the lease sets a time period—let’s say five years—the landowner would be in breach of the contract if he were to try to kick the farmer off early. That is, presuming that the farmer paid rent on time and followed all the other provisions of the lease. The farmer could file a lawsuit and request that the court issue an order or injunction to stop the landowner from ending the lease. Alternatively, the farmer could demand compensation for any damages incurred from early termination.



Farmer Kelly: In the case of Kelly and Jack, the scratch paper includes all the basic terms except for the length of the lease. This is problematic! Is it one season, or multiple seasons? While Jack may have told Kelly she could “farm land for as long as she wanted,” this indefinite term is not in writing. Most likely a court would conclude that this is an “at will” lease and Jack can in fact end the lease on a whim so long as he notifies Kelly within the legal time period.

Tip 3: Demand that the landowner notifies you within the legal time period if he wants to end the lease

If the lease is not in writing, or the writing does not specify the time period, default laws establish how far in advance a party must notify the other if they want the lease to end.

In Minnesota, the landowner must give three months’ written notice to terminate the lease. However, if the farmer is required to make monthly rental payments, the lease can be terminated with just one month’s written notice. If the farmer fails to pay rent on time or neglects the property, the landowner can end the lease with just 14 days’ written notice.

In Wisconsin, if the use of the land is for agricultural purposes, the landowner must give the farmer at least 90 days’ notice to terminate the lease. If the farmer fails to pay rent on time or neglects the property, the landowner can end the lease with just five days’ written notice.

If the landowner doesn’t provide proper notice—in writing and within the time period specified by law—the farmer can take legal action to protect her right to stay on the land.



Farmer Kelly: Farmer Kelly can demand that Landowner Jack give her three months’ written notice in Minnesota and 90 days’ written notice in Wisconsin. In other words, he can’t simply walk up to her in early May and tell her she must leave immediately. At a minimum, she could stay through early August.

Tip 4: If you negotiate a written lease, specify whether the lease ends or renews automatically at the end of the term and how far in advance the parties must notify each other otherwise

It’s generally better if the parties themselves decide how they want this all to play out.

Accordingly, a written lease should clearly set forth a protocol for either renewing or ending the lease at the end of the agreed-upon term. If the lease is for one year, will it renew automatically unless one of the parties notifies the other that they don’t want it to continue? Or, will it terminate automatically unless the parties mutually agree that they want it to continue? Either way, how far in advance must the parties notify each other? Some farmers would prefer to know by October whether they will be able to farm the land the next spring. This gives them plenty of time to find another option should the lease not be renewed. Prior to entering a lease, farmers will want to try to negotiate what is best for them and be sure to get it in writing.



Farmer Kelly: Let’s say Kelly and Jack sat down to craft a thorough lease agreement. Kelly could have insisted that the lease renew automatically unless either party gave notice to terminate the lease by October 1. If this were the case, Jack would be in violation of the lease if he suddenly tried to kick her off the land in May.

Tip 5: If you negotiate a written lease, specify who gets what—or, how the parties are to compensate each other for purchases and improvements—when the lease ends

What happens to any improvements on the land—including unharvested crops and tillage— when the lease is terminated?

Crops grown on leased land are considered the personal property of the farmer. Generally, if the landowner terminates the lease before the farmer has harvested the crops, the farmer retains the right to access the land to harvest those crops. Alternatively, the farmer could insist that the landowner pay her the net value of the crop. If the landowner allows the farmer to harvest the crops, the landowner has a right to charge the farmer the market value rent for the use of the property until the crop is harvested.

Tillage is also an improvement the parties may want to consider including in the lease. If the land is already tilled when the lease terminates, the owner can charge more to the next farmer who rents it. To prevent such a windfall to the owner, and to compensate the farmer for her energy and costs in tilling the land, the farmer could ask for a reduction in the last month's rent or direct compensation for the costs incurred.

Unless the parties agree otherwise, the farmer also has a right to take any temporary structures such as hoop houses, equipment, irrigation systems, or other capital that she paid for so long as the removal does not permanently damage the property. For example, if the farmer installed a portable shed or greenhouse, she could take it with her. If the greenhouse or shed was built on a foundation that was permanently affixed to the ground, it will likely be considered the personal property of the landowner. The farmer must compensate the landowner if there are any damages to the property from removing anything.

For more tips on negotiating a written lease, check out Farm Commons' guide *Drafting a Lease: Questions for Farmers and Landowners to Ask*.

Conclusion

Bottom line, the best approach is to be proactive by negotiating with the landowner upfront on issues surrounding lease termination and getting your lease in writing.