

Breaking your lease can be hard to do

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Often leases contain 'break clauses', giving the tenant the opportunity to bring the lease to an end early. The devil lies in the detail though and your lease may not give you as good a deal as you first thought. The courts apply strict rules to break clauses - what the clause says is exactly what you must do - and if a landlord is concerned about finding a new tenant after you have gone, it's more likely to try to find a reason (i.e. a breach by you) to declare your break notice invalid. Therefore, the more uncertain the property market is, the more likely it is that your landlord will dispute the validity of your break notice.

The problem is that break clauses often say that the tenant must have paid all of the rent and complied with all of the terms of the lease up to the date of termination so your notice to break could be invalid if you have breached any of the provisions of your lease, regardless of how minor the breach, when it happened and whether you remedied it. It's also worth remembering that the term 'rent' often includes service charges, which you might want to withhold if you are in a dispute over them with your landlord.

If you want to exercise your break clause, it's best to check it carefully first to see what conditions it includes. It is likely that you will need to make sure that your rent is paid up to date and that the property is in good repair and has been decorated in accordance with the lease before serving your notice. Decoration clauses often require you to decorate during the last six months of the term 'howsoever determined', meaning that you may have to redecorate during the break notice period.

Break clauses have become common in new leases over the past few years - landlords are often prepared to agree to more concessions in order to fill their properties. If you are entering into a new lease with a break clause, it could be improved in your favour by negotiating:-

- as few conditions on you as possible when you exercise the break e.g. it should be enough that there are no outstanding arrears of rent and other undisputed amounts such as the service charge
- you should not have to redecorate again during the break notice period if you have already redecorated within the past year
- you should be entitled to be repaid any rent which you have paid in advance for any period falling after the lease is terminated by the break.



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