



MONTH TO MONTH TENANTS

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KNOW YOUR RIGHTS

Tenants who do not have a fixed-term lease, or who moved into an apartment without any written/lease agreement, and who pay rent on a monthly basis are called month-to-month tenants. Tenants who stay past the end of a lease agreement are also treated as month-to-month tenants once the landlord accepts their rent when the lease is expired. Month-to-month is the default status of a tenant in NYS in the absence of an active lease. If you moved into an apartment and did not enter into any agreement whatsoever with your landlord, you are month-to-month.

Look closely at your written lease agreement, if you do have one, to see whether there is a clause stating that either party can terminate the agreement with a month's notice or a 30 day notice, or even a 60-day notice. This is an indication that you do have a lease agreement but that it is not fixed to a full year, and that your tenancy can potentially be terminated without cause.

A month-to-month tenancy may be terminated by **either party** by giving at least one calendar's month notice before the expiration of the term. For example, suppose your rent is due on the first of each month. Your landlord must tell you by September 30th, before your October rent is due, that he or she wants you to move out by November 1st. This notice spans the entire calendar month of October and so it is proper. These notices can be written or verbal, and delivered personally by either party (court does not need to have involvement). While it's always best to put things in writing, month-to-month termination notices that are in the form of a text, or verbal, or written very informally on a piece of loose paper are all valid in NYS. This is surprising to many, & a 30 day notice should never be ignored by a month to month tenant.

Remember that your landlord will be entitled to the rent for the entire duration of the tenancy, even after giving a 30-day notice. Under no circumstances does the landlord have to agree to use the security deposit as the final month's rent, nor will a judge ever order a landlord to do so. However, it is not uncommon for landlords to agree to use the deposit for the final month's rent if the apartment is clean. It's OK to ask.

The termination notice does not need to specify why the landlord seeks possession of the apartment. Month to Month tenancies can be terminated by either the landlord or the tenant, for any reason, or for no reason at all, except if the reason is retaliatory (RPL 223-b). (See the Retaliatory Eviction handout for more information).

A landlord cannot raise the rent of a month-to-month tenant without properly notifying & obtaining the consent of the tenant. Proper notification for raising the rent is giving the same calendar's month notice as for termination, but instead of the rent increase. However, if the tenant does not consent to the rent increase, the landlord can terminate the tenancy by giving the same appropriate calendar months' notice explained above.

A termination notice does not automatically allow the landlord to evict or lock the tenant out once the date on the termination notice passes by & the tenant remains. The landlord must first bring a holdover eviction proceeding in court and win the case, and then execute a signed warrant of eviction with the Sheriff or City Marshall. (See the Eviction - Court Process handout and the 14-Day Notice/Lockout handout for more information)

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NOTICE OF CHANGES TO MONTH TO MONTH TENANTS THAT WILL BECOME EFFECTIVE IN OCTOBER, 2019

**New section of RPL (226-C) amends timing of month to month tenancy terminations and rent increases:

Specifically, if a landlord intends to renew tenancy with a rent increase greater or equal to 5% OR intends not to renew a tenancy, then

WRITTEN notice must be given as follows:

-30-day notice required for tenants who have occupied an apartment for less than one year and do not have a lease term of at least one year;

-60-day notice required for tenants who have occupied an apartment for more than one year but less than two years, or have a lease term for at least one year but less than two years

-90-day notice required for tenants who have occupied an apartment for more than two years or has a lease term of at least 2 years

Tenants will still be required to give 30-days notice to terminate their month to month tenancy, and will not be subject to the 30/60/90 day notice changes.