

I Am A Victim of Domestic Violence. Can I Break My Lease?

If you are a victim of domestic violence, and you have a lease with your landlord, you may wish to break the lease early and move for a variety of reasons, whether or not the abuser lives with you. Or you may wish to sever the abuser from the lease (if you are both on the lease) if that person leaves the apartment or is ordered out by a court per an Order of Protection. Under New York State law (Real Property Law '227-c), you are allowed to break your lease early in a case of domestic violence, but there are some requirements that you must follow to be protected under this law.

What should I do first?

This law requires that you have an Order of Protection (or have applied for one) against the abuser. Therefore, your first step should be to apply for an Order of Protection. The order can be temporary or permanent. You can apply for one from any court (i.e., Family Court, Criminal Court). You will have to return to the same court to break the lease (or sever the abuser from the lease) so consider that when deciding where to apply for an Order of Protection.

Do I have to give my landlord any notice?

Yes. Under this law, you are required to give the landlord (and any other co-tenants) a ten day notice that you are seeking an order by the court to authorize you to break your lease. This notice should be in writing. Make sure you keep a copy, so that you can prove to the court that you provided this required notice.

I've obtained an Order of Protection and given my landlord notice. Now what?

You need to return to the court that granted the Order of Protection, and petition the court for an order. The court shall issue the order only if you can prove that:

- Besides the Order of Protection, there continues to exist a substantial risk of physical or emotional harm to you or your child(ren) if you remain in the apartment and that relocation will substantially reduce that risk.
- You tried to get the landlord to voluntarily "break" the lease and the landlord refused.
- You are acting in good faith.

What happens if the court grants the order?

The court shall grant the order based on the following conditions:

- All money owed under the lease through the termination of the lease is timely paid.
- Upon termination, all occupants must leave the apartment, except you are not responsible for making sure the abuser leaves.
- If there are other tenants besides you and the abuser (i.e., roommates) the court shall not terminate the entire lease, unless the other tenants agree. The court can sever the co-tenancy, meaning the lease would no longer be legally binding on you, but the lease would remain for the others.

- Adjustments must be made through the termination date of the lease, ordered by the court, for any rent or other payments made in advance or which are now due and owing under the terms of the lease.

When will the lease terminate?

The order shall specify the lease termination date. It will be at least thirty days and no more than one hundred and fifty days after the next date the rent is due. For instance, if the order is served upon the landlord on March 20th, and rent is due on the first of every month, the termination date would be at least May 1st or thereafter, because the next rent is due on April 1st. You are responsible for paying the rent until the date the lease terminates.

My lease says I cannot terminate it early for domestic violence. What can I do?

Any lease provision that waives or modifies a tenant's rights under RPL §227-c is void and contrary to public policy and cannot be enforced. Even if there is a lease provision that says you cannot terminate early in the case of domestic violence, this law will still apply to you.