

# Forfeiture Clauses<sup>1</sup>

If the Lessee shall fail to pay any installment of rent when due and payable or to perform any of the other conditions as herein provided, such failure shall at the option of the Lessor, terminate this lease and upon one days notice to the Lessee the Lessor may without further notice or demand reenter upon and take possession of said premises without prejudice to other remedies, the Lessee hereby expressly waiving all the legal formalities.

Stanley v. Harvey, 90 N.C. App. 535, 538, 369 S.E.2d 382, 384 (1988)

Is this a forfeiture clause? Yes      No

What triggers it? \_\_\_\_\_

What procedure is required to exercise it? \_\_\_\_\_

What does it give the LL a right to do? \_\_\_\_\_

---

Should the Defendant remain in default of the lease for 30 days following notice from the Plaintiffs of default, the Plaintiffs may thereupon enter upon the premises and expell (sic) the lessee (Defendant) therefrom, without prejudice to any other remedy which the lessor, his executors, administrators or assigns may have on account of such default.

Menache v. Atl. Coast Mgmt. Corp., 43 N.C. App. 733 (1979)

Is this a forfeiture clause? Yes      No

What triggers it? \_\_\_\_\_

What procedure is required to exercise it? \_\_\_\_\_

What does it give the LL a right to do? \_\_\_\_\_

---

<sup>1</sup> Edited for improved readability

In a default other than failure to pay rent, the lessor will take no action to effect a termination of the lease without first giving the tenant a reasonable time to cure the default. Upon the payment of the rent and performing the other terms of the lease, the lessee shall have the quiet enjoyment of the property.

Couch v. ADC Realty Corp., 48 N.C. App. 108, 113, 268 S.E.2d 237, 241 (1980)

Is this a forfeiture clause? Yes      No

What triggers it? \_\_\_\_\_

What procedure is required to exercise it? \_\_\_\_\_

What does it give the LL a right to do? \_\_\_\_\_

Tenant shall pay Landlord the weekly rent of \$100.00 per week, payable on Friday. In the event the rent is not paid on Friday, tenant will vacate by Tuesday.... In the event of any breach of the payment of rent or any other allowed charge, or other breach of this Lease, Landlord shall have full rights to terminate this Lease in accordance with state law and re-enter and reclaim possession of the leased premises, in addition to such other remedies available to Landlord arising from said breach.

Stines v. Carter, 240 N.C. App. 295, 772 S.E.2d 264 (2015) (unpublished *per* Rule 30(e)).

Is this a forfeiture clause? Yes      No

What triggers it? \_\_\_\_\_

What procedure is required to exercise it? \_\_\_\_\_

What does it give the LL a right to do? \_\_\_\_\_

In the event of any default hereunder or if the Landlord shall at any time deem the tenancy of the Tenant undesirable by reason of objectionable or improper conduct on the part of the Tenant, his family, servant, guests, invitees, or causing annoyance to other Tenants in said building, or should the Tenant occupy the subject premises in violation of any rule, regulation or ordinance issued or promulgated by the Landlord or any rental authority, then and in any of said events the Landlord shall have the right to terminate this lease by giving the Tenant personally or by leaving at the leased premises a thirty day written notice of termination and this Lease shall terminate upon the expiration of thirty days from the delivery of such notice if the default is not remedied within a reasonable time not in excess of 30 days and the Landlord, at the expiration of said thirty day notice or any shorter period conferred under or by operation of law shall thereupon be entitled to immediate possession of said premises and may avail himself of any remedy provided by law for the restitution of possession and the recovery of delinquent rent. If this lease is terminated, Landlord shall refund prepaid and unearned rent, and any amount of the security deposit recoverable by the Tenant.

However, in the event the default is nonpayment of rent, Landlord shall not be required to deliver thirty day notice as provided above but may serve Tenant with a ten day written notice of termination whereupon the Tenant must pay the unpaid rent in full or surrender the premises by the expiration of the ten day notice period. Failure by Tenant to pay all past due rent by the expiration of the ten day notice period shall imply a forfeiture of the term and the Landlord may forthwith enter and dispossess tenant without have declared such forfeiture or having reserved the right of reentry in the lease.

Is this a forfeiture clause? Yes      No

What triggers it? \_\_\_\_\_

What procedure is required to exercise it? \_\_\_\_\_

What does it give the LL a right to do? \_\_\_\_\_

Landlord may give 5 days written notice to tenant to correct any of the following defaults:

Failure to pay rent or added rent on time

Improper assignment of the lease, subletting all or part of the premises, or allowing another to use the premises

Improper conduct by tenant or other occupant of the premises

Failure to fully perform any other term in the lease.

If tenant fails to correct one of these defaults within 5 days landlord may cancel the lease by giving tenant a written 3 day notice stating the date the term will end. On that date the term and the tenant's rights in this lease automatically end and tenant must leave the premises and give landlord the keys.

Is this a forfeiture clause? Yes          No

What triggers it? \_\_\_\_\_

What procedure is required to exercise it? \_\_\_\_\_

What does it give the LL a right to do? \_\_\_\_\_

In the event that you fail to comply with any one or more of the terms and conditions contained herein or referenced hereto, or should you fail to perform any other promise, duty or obligation herein agreed to or imposed by law, any such failure shall constitute your immediate and instant default of this agreement without notice or warning of any kind to you. Upon any default by you, we shall be entitled to collect from you any and all expenses, damages, and costs (including reasonable attorney's fees and court costs) arising out of or in any way relating to said default. In the event of a default by you, we may, with or without notice to you, do any one or more of the following acts: (1) terminate your right to possession of the home without terminating this agreement, and/or (2) terminate this agreement.

*Excerpted from AANC lease 2008.*

Events Constituting Breach: It shall constitute a breach of this agreement if Tenant fails to

- (i) Pay the full amount of rent herein reserved as and when it shall become due hereunder;

or

- (ii) Perform any other promise, duty, or obligation herein agreed to by him or imposed upon him by law and such failure shall continue for a period of five (5) days from the date the Landlord provides Tenant with written notice of such failure.

In either of such events and as often as either of them may occur, the Landlord, in addition to all other rights and remedies provided by law, may, at its option and with or without notice to Tenant, either terminate this lease or terminate the Tenant's right to possession of the Premises without terminating this lease.

*NCREC Standard Form 410-T (2006)*