



Show me the lease.

No lease?

Tell me about your rental agreement.

A landlord-tenant relationship is required for an action for summary ejectment.

ession Lewandowski/50
Breach of a Lease Condition

Lease contains a forfeiture clause. 1 "If tenant violates any material provision of this lease, the landlord has the right to declare it forfeit and to retake possession of the rental property." Forfeiture clause applies to particular breach committed by Tenant. "In the event that the landlord decides to terminate this lease, the landlord will deliver written notice of termination at least 7 days prior to termination." Landlord strictly followed lease procedure for forfeiture.

Is this a forfeiture clause?

'In case Landlord should bring suit for the possession of the premises, for the recovery of any sum due hereunder, or because of the breach of any covenant herein, or for any other relief against Tenant, declaratory or otherwise, or should Tenant bring any action for any relief against Landlord, declaratory or otherwise, arising out of this lease, and Landlord should prevail in any such suit, Tenant shall pay Landlord a reasonable attorney's fee which shall be deemed to have accrued on the commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.'

Morris v. Austraw, 269 N.C. 218, 222, 152 S.E.2d 155, 158 (1967)

	3 Doors to Possession						
Failure to Pay Rent		Holding Over			Breach of a Lease Condition		
	-			1.	Forfeiture clause Triggered by T		
	-		_	3.	Lease procedure for termination strictly followed		
	-		_				

Defenses to Breach of a Lease Condition

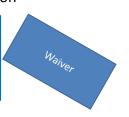
Defenses to Breach of a Lease Condition When termination of a lease depends upon notice, the notice must be given in strict compliance with the contract as to both time and contents. LL didn't follow lease procedure <u>Stanley v. Harvey</u>, 90 N.C. App. 535, 539, 369 S.E.2d 382, 385 (1988)

Subsidized housing Be especially careful!

Defenses to Breach of a Lease Condition

After learning of tenant's breach, "plaintiff had two choices: 1) it could commence proceedings to remove defendant from the premises, or 2) it could continue to accept rent from defendant and permit the lease to remain in force. Plaintiff could not do both.

<u>Cmty. Hous. Alternatives, Inc. v. Latta</u>, 87 N.C. App. 616, 618, 362 S.E.2d 1, 2 (1987)



New law!

"In an action for ejectment based upon G.S. 42-26(a)(2), the lease may provide that the landlord's acceptance of partial rent or partial housing subsidy payment does not waive the tenant's breach for which the right of reentry was reserved, and the landlord's exercise of such a provision does not constitute a violation of Chapter 75 of the General Statutes."

S.L. 2012-17, effective 10/1/2012

Failure Pay Rent No forfeiture clause in lease.



T failed to pay rent when due.

LL demanded the rent and waited 10 days before filing complaint.



3 Doors to Possession

Holding

Over

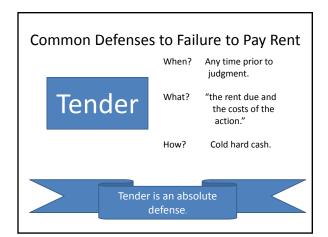
Failure to **Pay Rent**

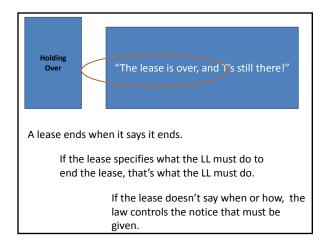
- 1. T failed to pay
- rent.
 2. LL made clear demand for
- rent.
 T failed to pay
 within 10 days.

Breach of a Lease Condition

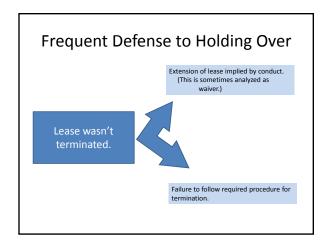
- Forfeiture clause
- 2. Triggered by T
- Lease procedure for termination strictly followed

Common Defenses to Failure to Pay Rent Lease has forfeiture clause. Failure to make separate demand. LL didn't wait long enough before filing complaint.





3 Doors to Possession Breach of Holding Failure to a Lease Over **Pay Rent** Condition 1. T failed to pay rent. 1. Forfeiture clause Lease has ended. 2. LL made clear 2. Triggered by T 2. T remains in possession. demand for rent. 3. Lease procedure for T failed to pay within 10 days. termination strictly followed





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SE is just no use at all to reach which of the following objectives?	
of the following objectives:	
A guest	
who's outstayed her welcome.	
	1
SE is just no use at all to reach which	
of the following objectives?	
	-
A guest adult son	
who's outstayed his welcome.	
	1
SE is just no use at all to reach which of the following objectives?	
of the following objectives:	
A guest adult son roomate/lover	
who's outstayed his welcome.	

SE is also use	eless when it comes to	
Removing your sister from the property daddy left you	Forcing the live-in nanny to stop living in after you fire her.	
Testantet.	Moving out the former homeowner so that you can move in to the foreclosed property.	
EAGY	you can move	
	Kurco Polo	
Helping you sell a home on the		
installment plan, again and again and again	Making the paying customer leave your hotel, residential treatment center, or group home.	