Chapter Six

Lease Agreements

I. Introduction

As the number of farmers who rent land, equipment, and livestock grows, leases play an increasing role in agriculture. This chapter reviews both real estate leases and equipment and livestock leases.

In every lease there are at least two parties: the lessor and the lessee. The lessor owns the property, and the lessee rents the property from the lessor. These definitions apply to both real estate leases and leases of goods.

> **Basic lease terms: lessor and lessee**
>
> The lessor owns the property. The lessee rents the property from the lessor.

A. Putting leases in writing is usually a good idea

It is almost always a good idea to put a lease in writing. Many farmers have used oral lease agreements for years without problems. These leases can be perfectly legal and, in the right situation, may be the best way for farmers to rent property. As with other types of agreements, however, putting a lease in writing helps to prevent confusion and ensure that the agreement will be legally enforceable.

1. Written leases help eliminate confusion

Usually the problem with an oral lease is not that one person tries to get the best of the other in an unfair way. More common are honest misunderstandings and confusion. Written leases help to prevent problems by laying out exactly what is expected from the lessor and lessee. While this may be especially important if the parties do not know each other well, it also usually makes sense for friends and family members. Although the risk of a misunderstanding may be small in any given year, the cost of just one problem could be very large.

2. Written agreements are needed to make some leases legal

Some leases are legally unenforceable if not in writing.

a. Real estate leases for more than one year must be in writing

As discussed in Chapter 2 of this book, under Minnesota's version of the statute of frauds, a real estate lease for more than one year must be in writing.[1] If not in writing, the lease of land for more than one year is legally void.[2] A tenancy from year to year—which is defined below—may be enforceable if made orally.[3]

(1) "Year" means 12 months

The law defines a year as a calendar year.[4] This means that if the lease covers one crop year but the crop year covers more than 12 months, the law considers the lease to cover more than one year. This means that the lease should be covered by the statute of frauds and must be in writing.

(2) Partial performance exception

An unwritten lease of land for more than one year might be enforceable if either the landlord or tenant at least partially fulfills the requirements of the lease.[5] The partial performance exception may apply, for example, if the tenant takes possession of the land and makes improvements on it, such as doing significant work in the field, especially if the landlord knew about the work but did not stop it.[6] Courts are reluctant to use the partial performance exception, so tenants should never plan on using it as a way of preserving a lease.[7] If a tenant does have an oral lease of more than a year and the landlord refuses to meet the terms of the oral lease, the courts might enforce the lease if they are convinced that it would be especially unjust and unfair to void the lease.[8]

b. Leases for goods with total payments of $1,000 or more must be in writing

As discussed in Chapter 2, an agreement to lease goods with total payments of $1,000 or more must also be in writing to be legally enforceable.[9]

---

1 Minn. Stat. § 513.05; *Bruder v. Wolpert,* 227 N.W. 46, 47 (Minn. 1929).

2 Minn. Stat. §§ 513.04, 513.05; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 2.02(a), 2.08, 3.17 (4th ed. 1995); 44 DUNNELL MINN. DIGEST, *Statute of Frauds* §§ 2.02(f)-(h), 2.05 (4th ed. 1999); *Bergstrom v. Sambo's Restaurants, Inc.,* 687 F.2d 1250 (8th Cir. 1982); *Hoppman v. Persha,* 248 N.W. 281 (Minn. 1933); *Millis v. Ellis,* 122 N.W. 1119 (Minn. 1909); *Alexander v. Holmberg,* 410 N.W.2d 900 (Minn. Ct. App. 1987).

3 *Larson v. Archer-Daniels-Midland Co.,* 32 N.W.2d 649, 653-54 (Minn. 1948).

4 Minn. Stat. §§ 513.04, 513.05.

5 44 DUNNELL MINN. DIGEST, *Statute of Frauds* §§ 4.02(b), 4.03(c) (4th ed. 1999); *Atwood v. Faye,* 273 N.W. 85 (Minn. 1937); *Biddle v. Whitmore,* 158 N.W. 808 (Minn. 1916); *In re Guardianship of Huesman,* 354 N.W.2d 860 (Minn. Ct. App. 1984); *Nelson v. Smith,* 349 N.W. 2d 849, 852-53 (Minn. Ct. App. 1984).

6 *Atwood v. Faye,* 273 N.W. 85 (Minn. 1937); *Biddle v. Whitmore,* 158 N.W. 808 (Minn. 1916).

7 However, courts do apply the partial performance exception to the statute of frauds more liberally to leases than to real estate purchase agreements. *Biddle v. Whitmore,* 158 N.W. 808 (Minn. 1916).

8 *Dale v. Fillenworth,* 162 N.W.2d 234 (Minn. 1968); *Nelson v. Smith,* 349 N.W. 2d 849, 852-53 (Minn. Ct. App. 1984).

9 Minn. Stat. § 336.2A-201.

(1) What payments are counted

The value of the lease is the total of all payments to be made under the lease contract. Payments for options to renew the lease or buy the leased goods are not counted.[10]

(2) Exceptions to the writing requirement

A lease of goods with payments of more than $1,000 does not need to be in writing to be enforceable if one of the following two exceptions applies.[11]

(a) The goods are accepted

If the leased goods are received and accepted by the lessee, the lessee cannot then claim the lease is invalid because it is not in writing.[12]

(b) Admitting the contract existed in court

If either the lessor or lessee admits in legal documents or in court that a lease was made, they cannot later claim that the lease is unenforceable because it is not in writing.[13]

c. What must be included in the written lease: formal contract not always required

When a written lease is required by law, only basic information is needed and no special words are required.

(1) Minimum requirements when a written lease of land is required

To satisfy the requirements when a written lease of land is required by law there must be a written contract or some other note or other memorandum that creates evidence of the lease.[14] The document should explain that the land is being rented, name the landlord and tenant, and explain that rent or some other benefit is being paid.[15] The lease needs to have the landlord's signature but does not necessarily need the signature of the tenant, especially if the tenant acts in ways to show that he or she agrees to the lease or if the

---

10 Minn. Stat. § 336.2A-201(1)(a).

11 Minn. Stat. § 336.2A-201(4)(a)-(c). In addition, if the goods were specially manufactured for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, the lease can be enforceable even if it is not in writing.

12 Minn. Stat. § 336.2A-201(4)(c).

13 Minn. Stat. § 336.2A-201(4)(b).

14 Minn. Stat. §§ 513.05, 513.04; *Bergstrom v. Sambo's Restaurants, Inc.*, 687 F.2d 1250 (8th Cir. 1982); 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 2.00(a)-(c), 2.02(a), 2.03 (4th ed. 1995); 44 DUNNELL MINN. DIGEST, *Statute of Frauds* §§ 2.02(f), 3.00, 3.01(a) (4th ed. 1999). For general information on what to include in a written lease agreement, see Gary A. Hachfeld and Kent V. Thiesse, *Putting Your Cash Rent Agreement in Writing*, NICOLLET COUNTY EXTENSION (Jan. 1999), *available at* http://www.extension.umn.edu/ruralresponse/resource_guide/fmaffp/pycraiw.html.

15 Minn. Stat. § 513.05.

tenant accepts possession of the written lease.[16]

(2) Minimum requirements when a written lease of goods is required

If a lease of goods must be in writing, it does not need to be extensive or detailed. Besides explaining that a lease contract has been made, to be enforceable the lease must be signed, must state the length of the lease, and must contain a reasonable description of the goods.[17]

Technically, a lease for goods does not need to have the signatures of both parties. It does need to be signed by the party against whom enforcement of the lease is sought.[18] For example, suppose a farmer and an equipment dealer agree to a tractor lease. If the farmer wants to force the equipment dealer to meet the terms of the lease, a court will only be concerned with whether the equipment dealer signed the lease. On the other hand, if the dealer is trying to force the farmer to carry out the lease, it is the farmer who must have signed the lease.

d. If the lease is not in writing — not legally enforceable

If a lease is required to be in writing but it is not, the lease is technically void. If there is any problem with the lease, the lessor and lessee cannot go to court to have the agreement enforced. For example, if a landlord decides to back out of an oral land lease before the lease term actually begins in order to accept an offer of higher rent, the tenant likely would not have any legal recourse.

(1) Sometimes, no practical effect

Often, the fact that a lease is legally unenforceable has no practical effect. If the lessor and lessee both keep the agreement and there are no misunderstandings about the specifics of the agreement, a technically void lease can be carried out without any problem.

(2) If a tenant takes possession of land under an oral lease — possible tenancy at will

A tenant who takes possession of land under an unenforceable oral lease may become what is technically known as a "tenant at will," which is discussed below.[19] If this happens, the tenant must pay rent but may be forced to leave the land after a short time.[20] The landlord may terminate a tenancy at will by

16 Minn. Stat. § 513.05.

17 Minn. Stat. §§ 336.2A-201, 336.2A-204; 44 DUNNELL MINN. DIGEST, *Statute of Frauds* § 3.01(d) (4th ed. 1999). If the court determines that the parties intended to enter into a lease, some terms can be left open or can be indefinite and the lease will still be valid. Minn. Stat. § 336.2A-204.

18 Minn. Stat. § 336A.2A-201(1)(b).

19 Minn. Stat. § 504B.001, subd. 13.

20 *Fisher v. Heller*, 207 N.W. 498 (Minn. 1926); *Fisher v. Heller*, 219 N.W. 79 (Minn. 1928); 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 4.01(h), 7.12(g) (4th ed. 1995); 44 DUNNELL MINN. DIGEST, *Statute of Frauds* § 2.02(i) (4th ed. 1999).

giving notice to the tenant. The time between the notice and the termination must be at least as long as the interval between rental payments or three months, whichever is less.[21] While the unwritten lease will not control how long the tenant may remain on the land, it does control the amount of rent charged.[22]

3. Canceling or modifying written agreements

A farmer should never assume that an oral change to a written lease or an oral cancellation is valid. It is always best to get the change in writing.

In some cases, oral changes in a lease might be legally enforceable—for example, if both parties act on the modification—but the law makes this difficult.[23] A final written lease typically cannot be changed by an oral agreement made at the same time the written contract is signed.[24] For example, if a landlord and tenant sign a lease that calls for a rent of $100 per acre but orally agree at the time they sign the lease that the rent will really only be $90 per acre, the oral change is probably legally void.

If the lessor and lessee orally agree to change the contract sometime after the written lease is signed and then both obviously accept the new lease terms, there is a greater chance that the change might be enforceable.[25] In such cases, there would generally need to be strong evidence showing that both the lessor and lessee agreed to change the lease; otherwise, an oral change to a written lease is almost always void. For example, if the landlord and tenant orally agree to change the terms of the contract and the landlord knows that the tenant is acting on the changes but does not object, the landlord generally cannot later claim that he or she is not bound by the oral modification of the lease.[26] If the terms of the written lease agreement say that the lease may only be changed in writing, no later oral changes will be enforceable.[27]

B. Negotiating a lease

Farmers can negotiate with lessors to get the best possible deal in a lease agreement.[28] Commercial lessors typically have their own standard lease forms, and many landlords now use photocopied form leases. Lessees do not have to accept the standard language of these agreements.

---

21 Minn. Stat. § 504B.135(a).

22 Minn. Stat. § 504B.001, subds. 8, 13.

23 Minn. Stat. § 336.2A-208; 44 DUNNELL MINN. DIGEST, *Statute of Frauds* § 2.05 (4th ed. 1999). The courts may conclude, however, that the ongoing negotiations and typical transactions between the two parties and other evidence may be used to interpret a written lease.

24 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 2.08, 3.17 (4th ed. 1995); Minn. Stat. § 336.2A-208.

25 *Nord v. Herreid*, 305 N.W.2d 337 (Minn. 1981).

26 *Mitchell v. Rende*, 30 N.W.2d 27 (Minn. 1947); *In re Guardianship of Huesman*, 354 N.W.2d 860 (Minn. Ct. App. 1984).

27 *Franklin Outdoor Adver. Co. v. Hovanetz*, C8-95-736 (Minn. Ct. App. Dec. 5, 1995) (unpublished).

28 See, for example, Gary A. Hachfeld, *Land Rental and Lease Agreements: Strategies for Reducing Costs and Managing Risks*, NICOLLET COUNTY EXTENSION (Jan. 1999), *available at* http://www.extension.umn.edu/ruralresponse/resource_guide/fmaffp/lrala.html.

Like all other printed contracts, printed terms can be changed in writing on the lease itself if both the lessor and lessee agree.

II. Real estate leases

Nearly half of all Minnesota farmland is rented.[29] This section discusses the law concerning real estate leases, especially leases of farmland.[30]

A. Lease terms

In addition to the minimum terms needed for a written land lease of more than one year to be enforceable, most leases address other important issues.

1. Description of the land

Disputes sometimes arise over what land is actually covered by a lease. Leases should be clear about whether they cover buildings, nontillable land, and acreage enrolled in state or federal farm programs or conservation programs. Leases should also specify who is responsible for insurance coverage, including crop insurance, and who is entitled to the proceeds in case of loss. If the number of acres is included in the lease, the lease should explain whether or not the acreage is for tillable acres, since tillable acres can change from year to year depending on the weather.

2. Rental payments

The rent for a farm lease can be figured in any number of ways. The two most common are cash leases and crop share leases.

a. Cash lease

In a cash lease, the tenant makes a set payment in cash in exchange for use of the land.[31]

---

29 See Lyon County Extension Office, *Trend: More farmland rented,* THE LAND, July 19, 2002, at 17. The article reports that in Minnesota "rented land represents 46.1 percent of the total land in farms" based on USDA surveys collected in 1999.

30 Helpful sources for lease agreement legal issues include: Phillip L. Kunkel, *Farm Leases,* UNIVERSITY OF MINNESOTA EXTENSION, *available at* http://www.extension.umn.edu/distribution/businessmanagement/DF2593.html; University of Nebraska Cooperative Extension Service, *Leases & Contracts, available at* http://www.ianr.unl.edu/pubs/farmmgt/#leases; Margaret Rosso Grossman, *Leasehold Interests and the Separation of Ownership and Control in U.S. Farmland*, PROPERTY AND VALUES: ALTERNATIVES TO PUBLIC AND PRIVATE OWNERSHIP 119 (Charles Geisler & Gail Daneker eds., 2000); and Cynthia A. Miller, *Reasonable Options for Those Who Do Not Want to Sell the Farm: Farm Leases and Farm Management Companies,* 5 DRAKE J. AGRIC. L. 251 (2000).

31 For more information on cash leases, see Damona Doye, *Developing a Cash Lease Agreement for farmland,* OKLAHOMA COOPERATIVE EXTENSION SERVICE, *available at* http://pearl.agcomm.okstate.edu/agecon/farm/f-214.pdf.

b. Crop share lease

In the usual crop share lease, the landlord supplies some of the equipment and some of the inputs for the crops planted on the leased land.[32] The landlord gets a share of the crops as rent. The landlord's rent share usually ranges from one-third to one-half of crop value, depending on local custom and on the contributions of the tenant and landlord.

c. Mixed lease

Farm leases sometimes require a minimum cash payment as well as a crop share interest.

3. Farming practices

Farm leases often specify the farming practices that the tenant must or must not use on the leased land. If the lease does not require specific practices, tenants are generally free to farm in ways that are commonly accepted in the community. Tenants do not need to leave the leased land in exactly the same condition they found it unless the lease requires so.[33]

a. Tenant prohibited from damaging the property

A tenant cannot commit "waste."[34] This is true whether or not waste is mentioned in the lease. In general, this means that the tenant must not allow the real estate to be permanently or severely damaged. For example, the tenant may not remove valuable topsoil from the property.

b. Conservation practices

Disputes over conservation practices can create problems in a farm lease.[35] If the landlord wants certain crops either to be grown or avoided, the lease should say so since the type of crop planted may affect eligibility for conservation programs. The same is true if the landlord wants some land to remain uncultivated. Landlords and tenants also need to be clear between themselves about required conservation compliance practices.

---

32 For more information on crop share leases, see Damona Doye, *Developing Share Lease Agreements for farmland*, OKLAHOMA COOPERATIVE EXTENSION SERVICE, *available at* http://pearl.agcomm.okstate.edu/agecon/farm/wf-964.html.

33 A tenant who installed drainage tile without prior written consent of the landlord, as required in the lease, was in breach of the farm lease. *Skoberg v. Huisman,* No. C9-01-1131 (Minn. Ct. App. Mar. 19, 2002) (unpublished).

34 Minn. Stat. § 561.17; 49 DUNNELL MINN. DIGEST, *Waste* (4th ed. 2000).

35 Eligibility for federal farm programs can be affected by tenant practices. 7 C.F.R. § 12.9 (2003).

4. Farm residences

Many farm leases include a house that the tenant will use as a home. Landlords of residential buildings have significant legal duties.[36] For example, landlords must keep the premises in reasonable repair and meet health and safety laws of the state and local governments, including maintenance of water supplies and sewage disposal.[37] The landlord may not force the tenant to be responsible for the upkeep and maintenance on the house unless the tenant agrees to do so in writing and the tenant gets some money for the extra work, such as reduced rent.[38] Landlords must pay interest on any security deposits for residential property, and leases for residential property may not provide for automatic lease renewal without notice to the tenant.[39]

A landlord may enter residential leased property only for a reasonable business purpose and after making a good faith effort at giving the tenant prior notice.[40]

5. Default

Most written leases define what is considered a default under the lease.

B. Lease renewal

One of the most confusing aspects of farm leases is renewal. Renewals are largely controlled by the terms of the lease but in some cases are determined by how the landlord and tenant act once the lease expires.

1. Renewals may be controlled or limited in the lease itself

Renewals may be controlled or limited by the terms of the lease.[41] It is possible, for example, for the lease to be renewable at the option of the landlord or to depend on some other specified event.

2. Tenancy for years and tenancy at will

Almost all farm leases will be either a tenancy for years or a tenancy at will. The difference between the two is important for understanding when and how leases are renewed. A tenancy for years ends automatically at the end of the lease's term. No notice is required. A tenancy at will, on the other hand, continues until it has been terminated by proper notice from one party to the other.

---

36 Minn. Stat. §§ 504B.145, 504B.161, subds. 1, 2, 504B.178; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 3.12 (4th ed. 1995). For a general overview of residential landlord-tenant issues see, Lawence R. McDonough, *Public Interest Law: Improving Access to Justice: Wait a Minute! Residential Eviction Defense Is Much More than "Did You Pay the Rent?"*, 28 WM. MITCHELL L. REV. 65 (2001).

37 Minn. Stat. § 504B.161.

38 Minn. Stat. § 504B.161, subd. 2.

39 Minn. Stat. §§ 504B.145, 504B.178.

40 Minn. Stat. § 504B.211; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 3.00 (4th ed. 1995); *Cardinal Estates v. City of Morris*, CX-02-1505 (Minn. Ct. App. Apr. 15, 2003) (unpublished).

41 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 2.09 (4th ed. 1995).

Tenancy for years: A tenancy for a fixed period, such as two years.

Tenancy at will: A tenancy with no fixed term.

a. Tenancy for years

A tenancy for years is a tenancy for a fixed period.[42] For example, if a tenant and landlord agree to a lease for two years, this is a tenancy for years. Technically, a tenancy for years does not have to be set in years; it can be for a certain number of months, or for a year and a half, and so forth. For example, a lease for five months, if the term is set in the agreement, is still a "tenancy for years."

(1) Tenancy for years does not automatically renew itself

A tenancy for years does not automatically renew itself.[43] In other words, if a tenancy for years is for one year, the tenant cannot assume that the lease will be renewed for another year.

(2) No notice of nonrenewal required

A tenancy for years ends automatically at the end of the term without any requirement of notice.[44] A landlord, therefore, is not required to give the tenant notice that the lease will not be renewed, and, likewise, a tenant is not required to give notice to a landlord.

b. Tenancy at will

Two main features identify a tenancy at will: the lack of a fixed term and the right of either the landlord or the tenant to terminate the lease at any time with proper notice. These leases are also sometimes called month-to-month tenancies or year-to-year tenancies.

(1) No fixed term

A tenancy at will does not have a fixed term or time limit.[45] For example, if the agreement between a landlord and tenant sets out the rent and other aspects of the lease but does not set out the total length of the lease, it is a tenancy at will.

---

42 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 1.09(c) (4th ed. 1995).

43 *Crain v. Baumgartner,* 256 N.W. 671 (Minn. 1934).

44 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 5.01(c) (4th ed. 1995); *Engels v. Mitchell,* 14 N.W. 510 (Minn. 1883).

45 Minn. Stat. § 504B.001, subd. 13; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 1.09(d) (4th ed. 1995).

(2) Either party may terminate the lease

In a tenancy at will, either the landlord or the tenant has the right to terminate the agreement if proper notice is given.[46]

(3) Three-month notice required for termination of most farm tenancies at will

Most farm tenancies at will are from year to year. If either the landlord or the tenant wants to terminate a tenancy at will, they must generally give notice three months before the desired termination date.[47] If the tenant is required to make rental payments monthly, termination of the tenancy at will requires only a one-month notice.[48] If the tenant refuses to pay rent or neglects the property, the landlord may terminate the a tenancy-at-will lease with 14 days' written notice.[49]

A landlord waives his or her right to terminate a tenancy at will after sending a termination notice if the landlord and tenant agree that the tenant can stay in spite of the notice or if the landlord otherwise shows that the right to terminate is waived—for example, by accepting rent.[50]

c. Creating a tenancy for years or a tenancy at will

Tenancies are either created expressly or by implication.

(1) Tenancy created expressly

A tenancy is created expressly when the landlord and tenant agree to it in direct, explicit terms. For example, if the landlord and tenant agree to a written one-year lease, they have expressly created a tenancy for years. Or, if the landlord and tenant agree that the tenant will rent the land for as long as it is agreeable to both parties, they have expressly created a tenancy at will. Landlords and tenants can expressly create a tenancy either with a written lease or with a verbal lease. As long as they make an explicit agreement, they have created the tenancy expressly.

(2) Tenancy created by implication

A legally binding tenancy can also be created by implication if the landlord and tenant do not create one expressly. For example, if the landlord and tenant agree to a lease but the agreement does not include a length of time to be

---

46 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 1.09(d), 5.01(d) (4th ed. 1995).

47 Minn. Stat. § 504B.135(a); *State Bank of Loretto v. Dixon*, 7 N.W.2d 351 (Minn. 1943); *State Auto Ins. Co. v. Knuttila*, 645 N.W.2d 475 (Minn. Ct. App. 2002); 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 1.09(f), 5.01(d)-(g), 5.05 (4th ed. 1995).

48 Minn. Stat. § 504B.135(a). If the rent is payable at periods of less than three months, notice must be at least as long as the time between payments.

49 Minn. Stat. § 504B.135(b).

50 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 5.05 (4th ed. 1995); *Kahn v. American Ins. Co.*, 162 N.W. 685 (Minn. 1917); *Arcade Inv. v. Gieriet*, 109 N.W. 250 (Minn. 1906).

covered by the lease, the law holds that a tenancy at will has been created by implication.[51] If the courts are convinced that a tenancy at will was implied in the agreement between the landlord and tenant, it will be legally enforced as a tenancy at will.

If a land lease is void for any reason—including failure to satisfy the minimum requirements under the statute of frauds—and the tenant has already taken possession of property, a tenancy at will has probably been created.[52]

3. Holdover tenancies

Sometimes a tenant remains on leased land after the lease has ended. If this is done without the consent of the landlord, it is called "holding over."[53] For example, suppose that a lease has a definite term of one year and the landlord and tenant have never reached an express agreement to renew the lease. If the tenant continues to occupy the property after the year has ended, the tenant is a holdover.

a. Tenants should avoid holdover tenancies

The most important point to be made about holdover tenancies is that they should be avoided by tenants. Although there will be cases in which a holdover tenant has the right to stay on the land, this will not always be the case. Tenants assuming that their tenancy for years will be extended take a large risk that they will be subject to eviction actions or lease terms and conditions that are not favorable.[54] As a tenancy for years comes to an end, tenants should always have a clear agreement with the landlord before assuming that they can stay on for another year.

b. If a tenant holds over — three possible outcomes

If a tenant who has a lease with a definite term holds over by staying on the property after the lease term ends, one of three legal results will occur: (1) the landlord and tenant can agree to a new lease, (2) the tenant can be treated as a trespasser, or (3) a tenancy at will can be created by implication.[55]

(1) Landlord and tenant can agree to a new lease

A holdover tenant and the landlord might agree explicitly to a new lease. The landlord cannot simply impose new terms on a tenant who is holding over—there must be an agreement.[56]

---

51 Minn. Stat. § 504B.001, subd. 13.

52 *Hagen v. Bowers*, 233 N.W. 822 (Minn. 1930); 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 1.09(f), 5.01(j) (4th ed. 1995).

53 *Gardner v. Board of County Comm'rs*, 21 Minn. 33, 38 (Minn. 1874).

54 *Hendrickson v. Wendt*, C1-90-1353 (Minn. Ct. App. Dec. 24, 1990) (unpublished).

55 *Johnson v. Johnson*, 64 N.W. 905 (Minn. 1895); *Unity Investors Ltd. P'ship v. Lindberg*, 421 N.W.2d 751 (Minn. Ct. App. 1988).

56 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 5.12(c), 5.13(a) (4th ed. 1995).

(2) Landlord may treat the tenant as a trespasser

A landlord does not have to agree to a new lease with a holdover tenant. When a tenant in a tenancy for years holds over after the term of the lease has ended, the landlord may treat the tenant as a trespasser and seek to evict the tenant.[57] If the landlord decides to treat the tenant as a trespasser, the landlord cannot try to recover rent from the tenant for the time the tenant held over.[58] If the landlord accepts rent for the holdover period, the landlord cannot treat the tenant as a trespasser.[59]

(3) A tenancy at will may be created by implication

Because a tenancy at will can be created by implication—without any explicit agreement between the landlord and tenant—a holdover tenancy can turn a tenancy for years into a tenancy at will.[60] If so, the terms of the original lease regarding rent and other specifics remain the same.[61] If the tenant started out with a tenancy for years, after being held over, and the lease became a tenancy at will, the rules regarding renewals of tenancies at will—such as three-month notice—then apply.[62] Subsequent lease violations are not waived, and a lessor may bring an eviction action based on continuing breaches.[63]

C. Nonpayment of rent

If a tenant fails to pay rent due under a lease, the landlord generally has the right to terminate the lease after giving the tenant 14 days' written notice.[64] In such cases, three months' notice is not required to terminate a tenancy at will.[65] The remedy for a default other than nonpayment will usually be limited to whatever is described in the terms of the lease.[66]

D. The tenant owns the crop even after a lease ends

Crops grown on leased land are the personal property of the tenant.[67] This is true even if the rent is to be paid as a share of the crop.

The fact that the tenant owns the crop can have an important practical effect if the tenant is somehow prevented from harvesting a crop. The most common causes of this situation are bad

---

57 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 5.12(b)-(c) (4th ed. 1995).
58 *Priordale Mall Investors v. Farrington*, 411 N.W.2d 582 (Minn. Ct. App. 1987).
59 *Oak Glen v. Brewington*, 642 N.W.2d 481 (Minn. Ct. App. 2002).
60 *Northern Display Adver. v. Aultman, Inc.*, 191 N.W. 413 (Minn. 1923); 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* § 5.13(a) (4th ed. 1995).
61 *Hildebrandt v. Newell*, 272 N.W. 257 (Minn. 1937); *Trainor v. Schultz*, 107 N.W. 812 (Minn. 1906).
62 *Northern Display Adver. v. Aultman, Inc.*, 191 N.W. 413 (Minn. 1923).
63 *Gluck v. Elkan*, 30 N.W. 446, 446 (Minn. 1886).
64 Minn. Stat. § 504B.135, subd. 2.
65 Minn. Stat. § 504B.135, subd. 2.
66 Minn. Stat. § 504B.135, subd. 1.
67 Minn. Stat. § 557.10; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 5.13(d), 10.01, 10.04 (4th ed. 1995).

weather that prevents the fall harvest and a tenant default in the middle of the lease term. At a minimum, even if the tenant is no longer in possession of the property when the crop is harvested, the tenant should have the right to remove the crop.[68] This right also applies to holdover tenants who still have crops in the field after the end of the lease term.[69] Several results are possible in this situation.

1. Lease may be renewed

If the problem is a delay in the harvest, it is possible that the lease will be renewed. In such cases, the tenant should get an agreement with the landlord as soon as possible.

2. Landlord may let the tenant harvest the crop

If the lease is not renewed, the landlord may nevertheless let the tenant harvest the crop. If so, the tenant must pay fair market value rent for the use of the property for the period of time until the harvest.[70]

3. Landlord may harvest the crop and pay the tenant for the crop value

If the landlord does not allow the tenant to harvest the crop and instead takes responsibility for the harvest, the landlord must pay the tenant the net value of the crop.[71]

E. If the landlord sells the land

In general, if the landlord sells the leased land, the lease continues under the new owner.[72] If the lease says otherwise, however, the tenant may have to move, although the tenant still has a right to remove or be paid for the crop.[73]

F. Eviction

If the tenant defaults, the landlord may be able to terminate the lease and evict the tenant through an eviction action, formerly called an unlawful detainer action.[74] Terminations of leases and eviction actions do not trigger farmer-lender mediation.[75]

Landlords may use an eviction action in several situations, including when the tenant continues to occupy the land after a lease for years has ended, after termination by notice to quit a tenancy at will, or if the tenant fails to pay rent or otherwise breaks the terms of the lease.[76] An evicted

---

68 Minn. Stat. §§ 559.14, 557.10.
69 *Roehrs v. Thompson,* 240 N.W. 111 (Minn. 1932); *Gallager v. Nelson,* 383 N.W.2d 424 (Minn. Ct. App. 1986).
70 *Woodcock v. Carlson,* 43 N.W. 479 (Minn. 1889).
71 *Aultman & Taylor Co. v. O'Dowd,* 75 N.W. 756 (Minn. 1898).
72 *Glidden v. Second Ave. Inv. Co.,* 147 N.W. 658 (Minn. 1914); *Jennison v. Priem,* 278 N.W. 517 (Minn. 1938); *Farmers Ins. Exch. v. Ouellette,* C8-97-1504 (Minn. Ct. App. Feb. 24, 1998) (unpublished).
73 Minn. Stat. § 557.10; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 5.13(d), 10.01, 10.04 (4th ed. 1995).
74 Minn. Stat. §§ 504B.291, 504B.365; 30 DUNNELL MINN. DIGEST, *Landlord and Tenant* §§ 4.08(e), 7.01, 7.02, 7.05, 7.07 (4th ed. 1995).
75 Minn. Stat. § 583.22, subd. 2.
76 Minn. Stat. § 504B.291.

tenant still has the right to harvest or be paid the value of any crop planted on the leased land before the eviction judgment was entered.[77]

If a landlord is trying to evict a tenant for nonpayment of rent, the tenant may be able to stop the eviction by paying the rent due, along with interest and costs.[78]

III. Leases of goods — equipment and livestock

The law treats leases of personal property, or "goods," somewhat differently than leases of real estate. Goods include all farm equipment and livestock.[79] This section discusses the law applicable to leases of goods that took effect on or after January 1, 1990.

A. Sometimes what seems like a lease is really a security interest

Many farmers leasing equipment or livestock sign detailed written leases. Depending on the terms of the agreement, however, some of these leases will really be considered sales with a security agreement.[80] For a description of security agreements, see Chapter Four.

1. The difference between a lease and sale can be important in many ways

Whether a lease agreement is really an agreement to create a security interest may seem at first like a legal technicality. In fact, the difference can be important to lessees for several reasons. Most significant is the availability of farmer-lender mediation.

a. Farmer-lender mediation not available under leases

Repossession of property under a lease does not trigger mandatory farmer-lender mediation.[81] Enforcement of a security agreement through seizure of the debtor's property, on the other hand, can trigger farmer-lender mediation.[82] Farmers who are facing repossession of leased property by a lessor and who believe that the lease is really a security agreement can request farmer-lender mediation whether or not they received a mediation notice.[83] Farmer-lender mediation is discussed in more detail in Chapter Seven.

---

77 Minn. Stat. § 559.14.

78 Minn. Stat. § 504B.291, subd. 1.

79 Minn. Stat. § 336.2A-103(1)(h).

80 Because so little Minnesota case law exists on this topic, reference to secondary materials may be helpful. See, for example, James C. Smith, *Leases of Personal Property*, in Peter F. Coogan et al., SECURED TRANSACTIONS UNDER THE UNIFORM COMMERCIAL CODE, § 30.02 (1998).

81 Minn. Stat. § 583.22, subd. 2.

82 For the purposes of farmer-lender mediation, agricultural property does not include "property that is leased to the debtor other than removable agricultural structures under lease with option to purchase." Minn. Stat. § 583.26, subd. 1. In one case, for example, the court denied mediation rights to a farmer whose leased combine was repossessed. *Deutz-Allis Credit Corp. v. Jensen*, 458 N.W.2d 163, 165 (Minn. Ct. App. 1990).

83 Minn. Stat. § 583.26, subd. 2(c).

b. Rights of the lessee or debtor after repossession

The rights of a farmer who has had property repossessed are roughly similar whether the repossession resulted from enforcement of a security interest or default on a lease. There are a few differences that could be important, however, and the secured debtor has more rights than a lessee.[84] First, secured creditors that have taken possession of a debtor's property must give the debtor advance notice if the property is to be sold.[85] Second, secured creditors that have taken possession of a debtor's property may in some cases be forced to sell the seized property and apply the proceeds to the debt rather than keeping the property.[86] Neither of these rights are available to lessees who had property repossessed under a lease.[87] Secured debtors' rights in seized property are discussed in more detail in Chapter Four.

c. Income tax differences

Whether an agreement is really a sale or a lease may also have tax implications for both parties. In general, if a farmer leases property, the lease payment is deductible; if the transaction is really a sale, the farmer's deductions are for depreciation and interest.[88] The benefits of either are likely to vary with different agreements. Unfortunately, the IRS determination of whether a transaction should be defined as a lease or a conditional sale may be somewhat different from the determination under Minnesota law that is discussed in this chapter.[89] Before making any decisions based on the tax code, farmers should always consult a professional tax planner.

d. Other creditors and bankruptcy

Whether the agreement created a lease or a security interest is of great importance to the relationship between the lessor and other third-party creditors of the lessee. If the agreement actually created a security interest and the lessor did not make all of the proper legal filings, the lessor may lose priority in the property to the lessee's other creditors. Other similar problems can continue for the lessor if the lessee files for bankruptcy.[90]

---

84 In *Deutz-Allis Credit Corp. v. Jensen,* 458 N.W.2d 163 (Minn. Ct. App. 1990), the court limited this difference somewhat by ruling that a lessor who repossesses property from a lessee must use due diligence to mitigate damages. In this case, reasonable diligence meant minimizing losses when selling a repossessed combine. The court observed that even though "there is no secured transaction involved, the UCC's concept of commercial reasonableness is, to an extent, borrowed from common law doctrines of mitigation of damages and the rule of unavoidable consequences. Thus, although the UCC may not be directly controlling, it may be helpful in determining mitigation of damages issues." 458 N.W.2d at 166.

85 Minn. Stat. §§ 336.9-610, 336.9-611.

86 Minn. Stat. § 336.9-620(e).

87 For a brief discussion, see Smith, *Leases of Personal Property,* § 30.05[8]-[9].

88 For basic information on the taxation of leases, see Charles Davenport & Darrell Dunteman, TAX GUIDE FOR FARMERS AND RANCHERS 11-12, 162-64 (1993).

89 For a brief discussion of this problem, see Richard L. Barnes, *Distinguishing Sales and Leases: A Primer on the Scope and Purpose of Article 2A,* 25 U. MEM. L. REV. 873, 875-77 (1995).

90 In bankruptcy, a lessor's rights may be reduced to an unperfected security interest. For a short discussion, see Paul H. Shur, *Reclaiming Possession of Leased or Sold Goods,* 26 UCC L.J. 111, 113-15 (1993).

2. Determining when agreements create a security interest — not a lease — in the eyes of the law

Minnesota statutes set out a way to decide whether an agreement will be considered a lease or a security agreement.

a. Different rules before and after January 1, 1990

Minnesota law regarding the definition of leases as compared to a sales agreement changed on January 1, 1990.[91] The discussion in this chapter focuses on agreements that began on that date or later.

B. The general principle — if little economic value is returned to the lessor, it's a security agreement

In general, the law looks at the agreement to see if leased property will be returned to the lessor at the end of the lease and, if it is returned, whether it will have any remaining meaningful economic value.[92] If at the end of a lease there is very little value left to transfer back to the lessor, the agreement will typically be considered a security interest for legal purposes.[93]

c. Conditions creating a security interest

If the agreement calls for the lessee to pay for the right to possess and use the property and the lessee cannot terminate the lease without paying the full rental amount, the agreement creates a security interest if any of the following four conditions is true.[94]

(1) The agreement is for the remaining economic life of the property

If the term of the agreement covers the whole economic life of the goods, the agreement is legally a security interest.[95] For example, if a farmer signs an agreement to lease a piece of machinery for eight years and the equipment has an expected useful economic life of only six years, legally this agreement is a sale with a security interest, not a lease.

(2) The lessee must either become owner of the property or renew the lease

If at the end of the lease the lessee is bound either to become the owner of the goods or to renew the lease for the remaining economic life of the goods, the

91 30 DUNNELL MINN. DIGEST, Leases § 1.00 (4th ed. 1995).
92 Minn. Stat. § 336.1-201(37).
93 Minn. Stat. § 336.1-201(37).
94 Minn. Stat. § 336.1-201(37)(a)-(e). This provision creates an assumption that a disguised security interest exists where the parties' agreement results in one of these four economic realities.
95 Minn. Stat. § 336.1-201(37)(a) (second paragraph). Such an agreement will create a security interest even if the agreement contains no option to purchase or lease.

agreement creates a security interest, not a lease.[96] This condition is met, for example, if the farmer signs a one-year lease for a piece of machinery that has an expected economic life of eight years and the lease also requires that the farmer renew the lease for seven more one-year lease periods.

(3) The lessee has the option to renew for no consideration or nominal consideration

If after meeting the terms of the lease the lessee has an option to renew the lease for the remaining economic life of the goods for either no additional cost or only "nominal consideration," the agreement is a security interest, not a lease.[97]

(4) The lessee has the option to buy for no consideration or nominal consideration

If after meeting the terms of the lease agreement the lessee has the option to become owner of the property for either no additional cost or only "nominal consideration," the agreement creates a security interest, not a lease.[98]

d. Defining terms — "economic life of the goods" and "nominal consideration"

The statute refers to the "economic life" of the leased property and "nominal consideration." The definition of these terms can be tricky.

(1) Economic life of goods

Exactly how the economic life of leased goods should be determined is not explained in the statute. The statute does say that it should be determined at the time the parties enter into the transaction.[99] This means that when figuring the economic life of the property, the focus should be on the expected life of the property calculated at the time the agreement was made.

(2) Nominal consideration

There is no exact definition of "nominal consideration" in the statute. "Nominal" literally means "in name only" and suggests insignificance. "Consideration" is a legal term meaning any money, service, or other thing of value given in exchange for promises in a contract. In light of these definitions, a very small amount of money will obviously be nominal consideration, while payment of fair market value would certainly be more than nominal. In between these two extremes, the definition remains hazy.

96 Minn. Stat. § 336.1-201(37)(b) (second paragraph). Arguably, "bound to renew" may mean binding in practice, although not technically binding legally.
97 Minn. Stat. § 336.1-201(37)(c) (second paragraph).
98 Minn. Stat. § 336.1-201(37)(d) (second paragraph).
99 Minn. Stat. § 336.1-201(37)(y).

(a) Very small payments are obviously nominal

When an agreement calls for a payment of a very small amount, courts will certainly see this as nominal consideration. For example, if an agreement gives the lessee the option to buy a dairy cow at the end of a lease for $5 or $10, this would be nominal consideration.

(b) Option to buy or lease at fair market value is more than nominal

The statute points out that if there is an option to renew or purchase the leased goods for fair market value—to be determined at the time the option is made available—the option price is not nominal consideration.[100] For example, if an agreement says that at the end of a lease the lessee has the right to buy the leased equipment for fair market value, this price is more than nominal.

(c) Relative comparisons likely

If the agreement calls for a payment between these two extremes, it is likely that a court would try to make some sort of relative economic comparison between what should be offered for a certain product and what is actually offered.[101]

(d) The sensible lessee test

As one writer has observed, an option price should be considered nominal if "the sensible lessee would in effect have no choice and, in making the only sensible choice," would exercise the option.[102] Under this view, if the lessee is left with no real economic choice but to exercise the option, the price of taking the action is nominal; if reasonable people would differ over whether exercising the option is a sensible economic choice, the price is more than nominal.

e. Considering other factors

If the requirements described above are met, a court should rule that the agreement creates a security interest without looking any further.[103] It is possible, however,

100 Minn. Stat. § 336.1-201(37)(x). Additional consideration also is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised.

101 For example, one court ruled that a purchase of a used combine for $9,000, which was the estimated fair market value of the combine, was clearly more than nominal consideration. *Deutz-Allis Credit Corp. v. Jenkins,* 458 N.W.2d 163, 166 (Minn. Ct. App. 1990). In an Alabama bankruptcy case, the farmer leased 35 Holstein heifers. The agreement included an option to purchase for the fair market value of the cattle at the time the option was exercised. The calves born during the lease term, however, became the property of the farmer-lessee at no additional cost. The court held that the value of the calves made the fair value of the original cows nominal. *In re Mitchell,* 44 B.R. 485 (Bankr. N.D. Ala. 1984).

102 Barnes, *Distinguishing Sales and Leases,* at 885-86. For more discussion of possible ways to define this term, see Smith, *Leases of Personal Property,* § 30.02[4][c][iii].

103 Minn. Stat. § 336.1-201(37).

that if the test described above is not met, courts could look at other factors to conclude that an agreement is a security interest. Several factors thought to be important under the previous law—such as whether the lessor or lessee pays for the taxes on the property—do not automatically create a security interest but might be considered by a court taking a closer look at an agreement.[104]

B. Lease agreement

Farmers leasing goods will probably be asked to sign a lease agreement. Because the lease agreement is a contract and its terms control the parties' rights and obligations, it should always be read carefully.[105] As mentioned earlier, the length of the lease term and a description of the goods should be included in the lease.[106] Although it is not legally required, leases of goods should also normally address other issues, such as those listed below.

1. Location of the goods

The lease should explain where the goods are to be located. Moving the goods without permission may put the farmer in default.

2. Grounds for termination of the lease

The lease should list situations in which either party can terminate the lease.

3. Other costs

The lease should explain who is responsible for insuring, maintaining, and repairing the goods; who will transport and install the goods, if applicable; and who must pay for these costs.

4. Liability

A lessor may want the lessee to sign a release of liability for any injury to persons or property caused by the goods. Farmers should check with their insurance company, and possibly with a lawyer, about the effects of such a provision in a lease.

---

104 Minn. Stat. § 336.1-201(37)(a)-(e) (third paragraph). Agreements do not create a security agreement "merely" because: (1) the present value of the lease payments is greater than the fair market value of the goods at the outset of the lease; (2) the lessee assumes the risk of loss or pays taxes, insurance, or other charges; (3) the lessee has an option to renew or to purchase; (4) the lessee has an option to renew at rent equal to or greater than the reasonably predictable fair market rent for the use of the property at the time the option is to be performed; or (5) the lessee has an option to purchase at a price equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

105 Minn. Stat. § 336.2A-301.

106 Minn. Stat. § 336.2A-201.

5. Transfer of the lease

Sometimes a lease will say that the lease can only be transferred with the lessor's consent. Farmers may want to make sure that a lease containing such a provision also says that such consent may not be unreasonably withheld.[107]

C. Warranties for leased goods

When someone leases goods, several warranties—legally binding promises about the goods—may apply. Some warranties are implied, which means they exist whether or not the warranty is ever mentioned or written down in the lease; and some warranties are express, which means they are a result of statements made by the lessor.

1. Implied warranties

The two most important implied warranties are a warranty of fitness and a warranty against interferences.[108]

a. Warranty of fitness

When the lessor knows at the time the lease is made that the goods are to be used by the lessee for a certain purpose and knows that the lessee is relying on the lessor's skill or judgment to pick out the goods, there is an implied warranty that the goods are fit for that purpose.[109]

b. Warranty against interference

The lessor must not have given anyone else a legal claim to the goods that interferes with the lessee's use of the goods.[110] Interference includes, for example, the repossession of the goods by a creditor of the lessor. This warranty is not available if the lessee had reason to know that the goods were subject to a claim or interest.[111]

c. Waiving implied warranties

The lessor may add a sentence to the lease which says that the lessee waives—or gives up—the right to implied warranties. For the waiver to be valid, it must usually be in writing, and it must be easily noticeable in the agreement.[112] Words that waive all warranties include "as is" or "with all faults."

---

107 If consent cannot be unreasonably withheld, the lessor can deny consent only if the transfer would defeat the purpose of the lease or a similar justification is present. *Medinvest Co. v. Methodist Hosp.,* 359 N.W.2d 714 (Minn. Ct. App. 1984).

108 For a general discussion of implied warranties, see John Levin, *Lease Terms Implied Under UCC 2A,* 27 UCC L.J. 227 (1994).

109 Minn. Stat. §§ 336.2A-213, 336.2A-214. A waiver of this implied warranty must say, "There is no warranty that the goods will be fit for a particular purpose."

110 Minn. Stat. § 336.2A-211.

111 Minn. Stat. § 336.2A-214(4).

112 Minn. Stat. §§ 336.2A-214(2)-(3), 336.1-205. Implied warranties may, however, be waived or modified by the common and accepted practices of business between parties. Minn. Stat. § 336.2A.214(3)(c).

d. No implied warranties for defects missed in lessee's examination of the goods

If the lessee fully examines the goods—or could have but chose not to—there is no implied warranty for defects that the examination ought to have revealed.[113]

2. Express warranties

Statements by the lessor about the goods sometimes can be legally binding as an express warranty. This includes statements made to try to convince the farmer to lease the goods.

a. A basis of the bargain

To create an express warranty, the lessor's statements must become part of the "basis of the bargain."[114] This means that the lessee must have relied on the statement as a reason for deciding to lease the goods.

b. Claims of fact, a promise, or a description

If the lessor makes a claim of fact or a promise to the lessee relating to the goods or describes the goods, and these statements become a part of the basis of the bargain, an express warranty has been created.[115] This means that if the claim of fact or promise turns out not to be true, or the description is not accurate, the legally binding warranty has been violated.

A warranty can be created even though the lessor does not use words such as "guarantee" or "warranty."[116] In fact, the lessor does not even need to have intended to create the warranty.[117] On the other hand, if the lessor only affirms the value of the goods, or makes a statement purporting to be his or her opinion only—not a fact, promise, or description—this does not create a warranty.[118]

D. Default

Several types of actions can be considered a default of a lease. In most cases, default is defined in the lease agreement, although the law defines some actions as a default whether or not they are in the lease.[119]

1. No right to notice of default in a lease of goods

In general, there is no right to notice of a default with a lease of goods, which implies there is also no right to cure.[120]

---

113 Minn. Stat. § 336.2A-214(3)(b).
114 Minn. Stat. § 336.2A-210(1).
115 Minn. Stat. § 336.2A-210. In addition, any sample or model that becomes part of the basis of the bargain creates an express warranty that the equipment conforms to the sample or model.
116 Minn. Stat. § 336.2A-210(2).
117 Minn. Stat. § 336.2A-210(2).
118 Minn. Stat. § 336.2A-210(2).
119 Minn. Stat. § 336.2A-501.
120 Minn. Stat. § 336.2A-501(3).

2. Lease may limit remedies

If one party defaults on a lease of goods, the other party may cancel the lease or enforce the lease obligations with "self-help" actions such as repossession or a lawsuit.[121] The lease agreement may, however, limit either party's remedies in case of default.[122] It is therefore important to read the lease closely.

3. If the farmer-lessee defaults

If the lessee fails to make rent payments or otherwise defaults on the lease, the lessor may cancel the lease contract, withhold delivery of the goods not yet delivered, and repossess goods already delivered.[123] The lessor may also use any other remedies listed in the lease and may file a lawsuit for damages resulting from the default.[124] The lessor also has the right to disable the equipment if it is left on the lessee's property.[125] If the lease allows it, the lessor may require the lessee to gather the goods and make them available to the lessor to repossess it in a way that is reasonably convenient for both parties. These actions can be done as "self-help" measures as long as the lessor does not breach the peace. This generally means that the lessor may not use physical force, break locks, enter buildings, or trespass on the lessee's property. If the lessor cannot recover the goods without breaching the peace, he or she will likely need to file a lawsuit.

The lessor may also sue the defaulting lessee for unpaid rent and other damages.[126] Lessors with reasonable grounds to fear that the rent will not be paid may, at any time during the term of the lease, demand assurance that the rent will be paid.[127]

4. If the lessor defaults

If the lessor fails to deliver the goods as agreed in the lease contract or the farmer rightfully rejects or revokes acceptance of the goods, the lessor is in default.[128] The lease may also specify other lessor actions that would be considered a default.

Once a lessee has accepted delivery of the leased goods, it is more difficult for the lessee to claim that they are not the right goods or are defective. Still, farmers discovering that leased goods are defective or otherwise do not conform to the lease agreement have the right to reject the goods within a reasonable period of time.[129]

If the lessor is in default, the lessee can cancel the contract, probably recover some of the money already paid, perhaps sue for damages, and take other actions that may be

---

121 Minn. Stat. § 336.2A-501(3).
122 Minn. Stat. § 336.2A-503.
123 Minn. Stat. §§ 336.2A-401, 336.2A-501(1), 336.2A-523, 336.2A-525, 336.2A-528 to 336.2A-530. For a general discussion, see Paul H. Shur, *Reclaiming Possession of Leased or Sold Goods,* 26 UCC L.J. 111 (1993).
124 Minn. Stat. §§ 336.2A-501(1), 336.2A-503, 336.2A-505.
125 Minn. Stat. § 336.2A-525(2).
126 Minn. Stat. §§ 336.2A-505, 336.2A-103(1)(b).
127 Minn. Stat. § 336.2A-401.
128 Minn. Stat. § 336.2A-508.
129 Minn. Stat. §§ 336.2A-517(4)-(5), 336.2A-516(3)(a)-(c).

allowed by the lease.[130] In some cases, if the lessor fails to deliver the goods, it may be possible to force the lessor to actually deliver the goods.[131] The lessor may have the right to cure the default.[132]

E. A lease of fixtures

Anyone leasing a fixture—that is, goods that will attach to real estate—should file a fixture financing statement with the county recorder or registrar of titles in the county where the real estate is located.[133] The statement generally protects the lessee against the lessor's creditors who may want to take the property.

130 Minn. Stat. §§ 336.2A-505(1), 336.2A-508, 336.2A-513, 336.2A-519, 336.2A-520(2)(b).
131 Minn. Stat. § 336.2A-508(2).
132 Minn. Stat. § 336.2A-513.
133 Minn. Stat. §§ 336.2A-309, 336.9-502.

This page intentionally left blank.