

Don't Let Your Lease Run Out!

By

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Last winter in this space I told you the story about Dr. John who had lost his lease and was forced to move out of his office space because he had failed to send his landlord the required notice announcing his intention to renew. This was an egregious error on his part and one that continues to haunt his financial world to this day. Today we will explore another problem that may arise concerning your right to renew or extend your lease. That problem is having the right to renew, but under terms that the landlord can dictate, as opposed to terms that have been pre-negotiated.

As your continued occupancy guaranty is a critical component of operating your practice, it is a very important that you pay very close attention to your renewal rights and obligations. The renewal option is a very valuable “right” built into your lease that allows you to continue tenancy in your office space after the (then-current) term of your lease has expired. If your lease was properly negotiated before you signed it, the terms and conditions under which you may renew are already spelled out in the lease and the landlord cannot change those terms or take them away from you. And, normally, there is nothing to be negotiated at the time of renewal unless the parties mutually agree to open up the contract to changes.

Ordinarily, in order to exercise your renewal “right”, you must send written notice to the landlord declaring your intention to renew the lease in the manner specified in the “Notices” section of the lease within the time frame specified in the section that details your renewal rights. Given proper notice, the landlord is obligated to allow you to continue your tenancy under the pre-negotiated terms that are stated in the lease.

The value in the “right” to renew (provided that the terms had been pre-negotiated) lies in your ability to remain in occupancy under known terms and conditions unmolested by the landlord. Common phraseology might say that the “*Tenant has the right to renew under the same terms and condition except as to rent which shall be (X)*”, with “X” being stated as a fixed dollar amount or a reference to a rent increase mechanism such a Consumer Price Index (CPI) increase, or to a fixed percentage of increase.

Where it gets tricky, however, is when the lease says “...*the rent shall be adjusted to “market” or “market rate.* Because the rate that the landlord demands and what “market rate” really is may be many dollars apart. And in the absence of a dispute resolution mechanism embedded in your lease, such as an arbitration clause, the landlord can name any price he wants and you are at his mercy. That condition is akin to your not having a renewal option at all or having one that says that you have the right to renew “...*upon terms to be negotiated.*” This is as worthless as a hole in the snow. And the landlord can do as he pleases. He can extort you, force unpalatable terms upon you or just plain toss you out the door by demanding terms that are unacceptable to you.

Your primary goal must be to never be without a place to practice dentistry. And in order to assure this, it is imperative that you pay close attention to the renewal option provisions in your lease. Don't wait until three months before your lease ends. Get out a copy of your lease TODAY and review this section so that you can start the renewal process at least 12 months before your lease ends. That way you have far more leverage than you will if you wait until the last moment. Don't end up in a financial squeeze like Dr. Bill. **KNOW YOUR LEASE** and seek qualified assistance to strategize the approach to negotiating your renewal terms.

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