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# Landlord **TENANT** VS COVID-19



## TIPS & TALKING POINTS

Your obligations, whether a landlord or tenant, in response to the COVID-19 crisis, are set out in your lease.

What are my obligations as a tenant during the Covid-19 crisis?

### **As a tenant, you are generally obligated to:**

- Pay rent and outgoings
- Maintain insurances for the premises
- Not abandon the premises
- Notify the landlord of an infectious disease (where it has occurred or if there is a reasonable chance of it occurring)
- Follow the health and safety procedures set out in your lease and comply with the requirements of your landlord about infectious diseases; and
- Report infectious diseases on your premises to the relevant authorities and comply with their directions, usually at your own cost, including fumigating the property.

If you fail to comply with any provisions of the lease you could be in breach, giving the landlord the right in some cases to terminate the lease and claim damages (compensation for losses).

### **As a landlord, what are my obligations in response to Covid-19?**

Depending on what your lease says, you might need to comply with the directions of any relevant authorities including government directions (to introduce additional health and safety procedures or close the premises). Because COVID-19 is a health and safety risk, you will also have obligations as a landlord to work with your tenants and other parties who are in the premises (maintenance workers etc.) and have open communication about any suspected or confirmed cases, and steps you have taken or others can take to prevent the spread.

Chances are that your lease does not address what considerations need to be made during a viral pandemic, and while HUD has made some suggestions (<https://www.hud.gov/coronavirus>), there is not clear guidance on many issues that landlords and tenants may face during this time.

One of your priorities should be to help your tenants find access to disaster relief pay so that they can make rent. Look to local and state guidelines for more ideas on how to proceed should you find yourself in this difficult situation.

The best thing that you can do to help your tenants to manage their fear and anxiety about the pandemic affecting the world is to help them get educated.

Connect tenants with resources that will help them:

### What Everyone Should Know About COVID-19

#### How To Prevent Disease Spread

#### What To Do If You Get Sick

Additionally, you can reassure tenants by reminding them that you are cleaning common areas as much as possible. It is also a good idea to encourage self-isolation and working from home if it is possible for them as this is the leading suggestion from the CDC and various state governments at this time to avoid getting sick and prevent disease spread.

#### **TIPS AND TAKEAWAYS:**

**Neither the landlord nor the tenant wins where the landlord is forced to evict the tenant.** While both sides can refuse to negotiate the terms of an existing lease, it might be worthwhile for the parties to discuss temporary changes to account for the ongoing uncertainty around COVID-19 - increases in cleaning services provided; a rent reduction; suspension of the payment of outgoings; changes to the mandated opening hours; or a surrender of the lease.

Given the daily developments of COVID-19, whether you are a landlord or a tenant, you should:

- Check your lease to determine your specific rights and obligations
- Stay informed of the requirements of authorities to report infectious diseases, close for quarantine periods, fumigate or clean the premises
- Think about what action you can take to help prevent the spread of COVID-19
- Keep your landlord or tenants updated as the situation progresses
- Keep very clear records of all communications, particularly changes to the lease terms agreed between the parties
- Review your insurance policies to see if they can respond to help curb the effect on your business, and if so whether this covers pandemics such as COVID-19, or loss of rent insurance in the
- For any new leases, carefully consider clauses dealing with infectious disease, harm to health, access and suspension and reduction of rent.

### General Liability Insurance

The standard commercial general liability policy includes “disease” under its definition of bodily injury. Barring any coverage-altering endorsements (and depending on the state and the specific terms of the policy), it would appear that there is coverage if an insured is found liable for accidentally helping spread a disease.

But liability policies often include a pollution exclusion. How pollution is defined – and how broadly the court will interpret the scope of the exclusion – will all impact whether liability arising out of a disease outbreak is covered or not.

**Have questions? Talk with a team leader!**

Best Regards,

BOB MCAULEY  
REGIONAL PRESIDENT