

Your Home and the Law is authored by the attorneys at JacksonWhite Attorneys at Law and addresses legal issues that arise for renters, homeowners and neighborhoods. **Have a question related to your home or community?** Send your questions to firm@jacksonwhitelaw.com.

Q: My husband and I are renters and have 16 months left on a two year lease. Since signing the current lease agreement, we have separated and are contemplating divorce. What happens to a lease on a rental home in a divorce?

A: To answer this question, we first need to establish who signed the lease. If your husband was the only one who signed the lease, he most likely would be the one responsible for the lease in the divorce unless he is okay with leaving the property and signing over the responsibility of the lease agreement to you in the divorce decree. The same goes for you if you were the only one to sign the lease.

If both you and your husband signed together, which is more typical, the lease is treated just like any other marital or community obligation. A lease agreement is a binding contract where you assume the responsibility of paying a landlord a specified amount over a specified time frame for use and enjoyment of the property. You in effect, become obligated to the landlord. All debts and obligations, and the reassigning of marital debt, is addressed in the divorce decree. If you decide that you would like to remain in the rental property (i.e., marital home) during and after the divorce proceedings, the decree will spell out that you are taking over responsibility for the terms of the lease. Keep in mind that this means you will solely be responsible for the rent payments and any other expenses associated with the property.

Usually the only time a landlord has a problem with the agreement changing or switching hands after a divorce is when the person who assumes responsibility for the lease agreement doesn't comply with the new terms, despite having it in the divorce decree. In this situation, the landlord may sue the non-responsible party since the lease agreement is legally binding as to both parties.

This article is provided for informational purposes only and is not intended to replace individual legal advice.

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