

Leases and Bankruptcy

By Arizona Bankruptcy Attorney John Skiba

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Car leases, apartment leases, house leases, commercial property leases. When times are good the lease provides you with the security you need to plan for the future. You know you have that car, apartment, house, store front, etc. locked up and no one can take it from you. When times are bad, a lease can feel like a prison sentence. You know you have that car, apartment, house, store front, etc. locked up and no one will take it from you.

Landlords need tenants. They want tenants for as long as possible. So, most of us end up with leases that are longer than we are probably comfortable with. The 60 month car lease, the 2 year apartment lease, and the five year commercial lease – we have all been there. The thing with a lease, if you default and you are nowhere near the completion of the lease term, you are going to owe a fortune to the landlord. If you are only one year into a five year lease on your new business and realize that there isn't quite as large of a market for gourmet doggie treats as you thought there was (maybe there is, I don't know), you will still be on the hook for the remaining four years, which could mean hundreds of thousands of dollars in liability.

Regardless of the type of lease, in bankruptcy you will be required to either “reject” the lease or “accept” it. If you reject the lease then you will be required to turn over the property or leave the home/building, however you can do so without owing a single penny on the remainder of the lease as it will be discharged in your bankruptcy case. This can provide huge incentive for those owing large amounts on a lease that is no longer needed/wanted to file for bankruptcy. On the other hand, if you have a car lease that you are quite happy with, you can continue to make the monthly payments as you were prior to the bankruptcy.

In business chapter 11 bankruptcy cases the issue of leases can be very complex, however in most chapter 7 bankruptcy cases and chapter 13 bankruptcy cases it is really a simple decision of whether to accept or reject the lease agreement.

If you are trapped in a lease or facing a law suit from an old landlord, I offer a free bankruptcy consultation where we can discuss your specific situation.

Arizona bankruptcy attorney John Skiba can be reached at (480) 464-1111.