

MODEL LEASE LANGUAGE

Limit Your Responsibility to Mitigate Damages

The law obligates an owner to do what it can to limit the harm caused by a tenant's default. But you can include language in your default clause that will limit your responsibility for mitigating damages. Here is Model Lease Language, drafted by Illinois attorney M. Rosie Rees, that you can adapt and use in your default clauses. Make sure you show this language to your attorney before using it, as different states have different standards for mitigation of damages.

MITIGATION OF DAMAGES

If Landlord terminates this Lease or Tenant's right to possession, Landlord shall use reasonable efforts to mitigate Landlord's damages to the extent required by applicable law, which shall not exceed such efforts as Landlord generally uses to lease other space at the [*building/center*]. Landlord will not be deemed to have failed to mitigate if Landlord leases any other portions of the [*building/center*] before reletting all or any portion of the Premises, and any failure to mitigate as described herein with respect to any period of time shall only reduce the rent and other charges and sums to which Landlord is entitled hereunder by the reasonable rental value of the Premises during such period, taking into account the factors described in clause [*insert #*], above. Landlord's rejection of a prospective replacement tenant based on an offer of rentals below Landlord's published rates for new leases of comparable space at the [*building/center*] at the time in question, or at Landlord's option, below the rates provided in this Lease, or containing terms less favorable than those contained herein, shall not give rise to a claim by Tenant that Landlord failed to mitigate Landlord's damages.