



## **October 31 is "Notice" Deadline for Many Farm Leases**

Revised by D. L. Uchtmann\*

Suppose a farmland owner may sell the land next year to someone who would operate the farm. Suppose an owner wants to change some other provision of an existing farm lease, or wants to bring in a different tenant. Suppose a tenant with a "cash rent" farm lease expects to lose money next year if the cash rent is not reduced.

In many cases, the last day of October will be the last day to give notice to terminate the existing Illinois farm lease. For many leases, in the absence of timely notice by the landlord or tenant, the current lease terms are automatically renewed. If one wishes to terminate an existing "year to year" farm tenancy, how, when, and with what language must notice be given?

Note: Laws can vary from state to state. This article is based on Illinois law.

### **Terminating Tenancies From "Year to Year" on Farm Lands**

The Illinois Compiled Statutes provide as follows: "In order to terminate tenancies from year to year of farm lands . . . the notice to quit shall be given in writing not less than 4 months prior to the end of the year of letting. Such notice may not be waived in a verbal lease. . . ." This provision requiring notice to terminate the lease applies only to a "year to year" lease of farmland.

A "year to year" lease can be a written lease which expressly states that it continues from year to year unless notice

is given to terminate the lease, or it can be a verbal lease where the tenant has been in possession for several years without a clear understanding about when the lease will end.

### **Content of the Notice and Timing**

How might the notice be worded? The Statute provides an example of language that can be used: "You are hereby notified that I have elected to terminate your lease of the farm premises now occupied by you, being (here describe the premises) and you are hereby further notified to quit and deliver up possession of the same to me at the end of the lease year, the last day of such year being (here insert the last day of the lease year)." This language is appropriate when the landlord is giving notice to the tenant. Some modification would be needed if the notice was being given by the tenant to the landlord.

When is the last day of the lease year? In most regions of Illinois, a year to year lease of farmland is presumed to begin on March 1 and end on the last day of February. But if there is convincing evidence that the lease actually began on some other date, the actual term and its last day are used. Where the last day of February is the last day of the lease, the 4-month notice must be given on or before the last day of October.

What if the year to year lease is in writing and it specifies a different notice period? The notice period of the written lease usually prevails. A different notice



period agreed to orally is not effective. Instead, the 4-month statutory notice period governs.

### **Sending the Notice**

How is the written notice to be sent to the tenant? The statute provides that the notice may be served by delivering a written copy to the tenant, or by leaving the notice with some person of at least 13 years of age residing on or in possession of the premises; or by sending a copy of the notice to the tenant by certified or registered mail, with a returned receipt from the addressee. If no one is actually in possession of the premises, the statute says the notice can be posted on the premises.

### **“Year-to-Year” Compared To “Term Leases”**

What if the lease is not a “year to year lease” at all, but is a lease for a specific “term,” i.e., a lease that begins and ends according to its own terms? If the lease is truly a “term lease,” then no notice to terminate is needed.

### **Use of an Attorney and Key Statutory Provisions**

Terminating a lease can have many legal implications. You are encouraged to consult with your legal advisor before sending a notice to terminate a “year to year” farm lease.

Key statutory provisions regarding the termination of tenancies are found in 735 ILCS 5/9-206, 735 ILCS 5/9-211, and 735 ILCS 5/9-213 (ILCS refers to the Illinois Compiled Statutes). An Unofficial version of the applicable

statute is available from the website of the Illinois General Assembly. Information about how to access Illinois Laws from this website is available at [http://www.farmdoc.uiuc.edu/legal/articles/ALTBs/ALTB\\_05-03/ALTB\\_05-03.pdf](http://www.farmdoc.uiuc.edu/legal/articles/ALTBs/ALTB_05-03/ALTB_05-03.pdf)

Note: The June 2006 and July 2004 revisions to this article change the earlier version (September 2002) primarily by updating the instructions for linking to the key statutory provisions. Other substantive provisions of the statute have not changed since the earlier article was published on *farmdoc*.

*Farmdoc* also contains lease forms, both crop share and cash, and an article discussing the statutory landlord’s lien on crops.

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