



Legal Protection (The Essentials): Guide to subtenancy and assignment

What is Legal Protection (The Essentials), and how can it help with questions or issues related to housing?

Designed to help give students who wish to pursue legal action the means to do so with expert support, the Program offers:

- ✓ A **legal consultation service** providing unlimited access to legal counselling on any area of law
- ✓ **Legal representation** for eligible cases related to **housing rights**, as well as employment rights, academic rights, and public notaries

In partnership with



Legal consultation

Students have **unlimited quick access** to legal counselling on **any areas of law**. The service offers:

- Virtual, phone, or in-person meeting with a lawyer
- Legal research
- Document analysis: contracts, formal notices, procedures, etc.
- Interpretation of laws and jurisprudence in relation to the student's situation
- Legal advice on the student's situation
- Explanation of legal concepts
- Sharing legal information
- Case follow-up with the law firm
- And more

Students can have lawyers examine their case, do the research and analysis, and offer legal advice adapted to their situation.

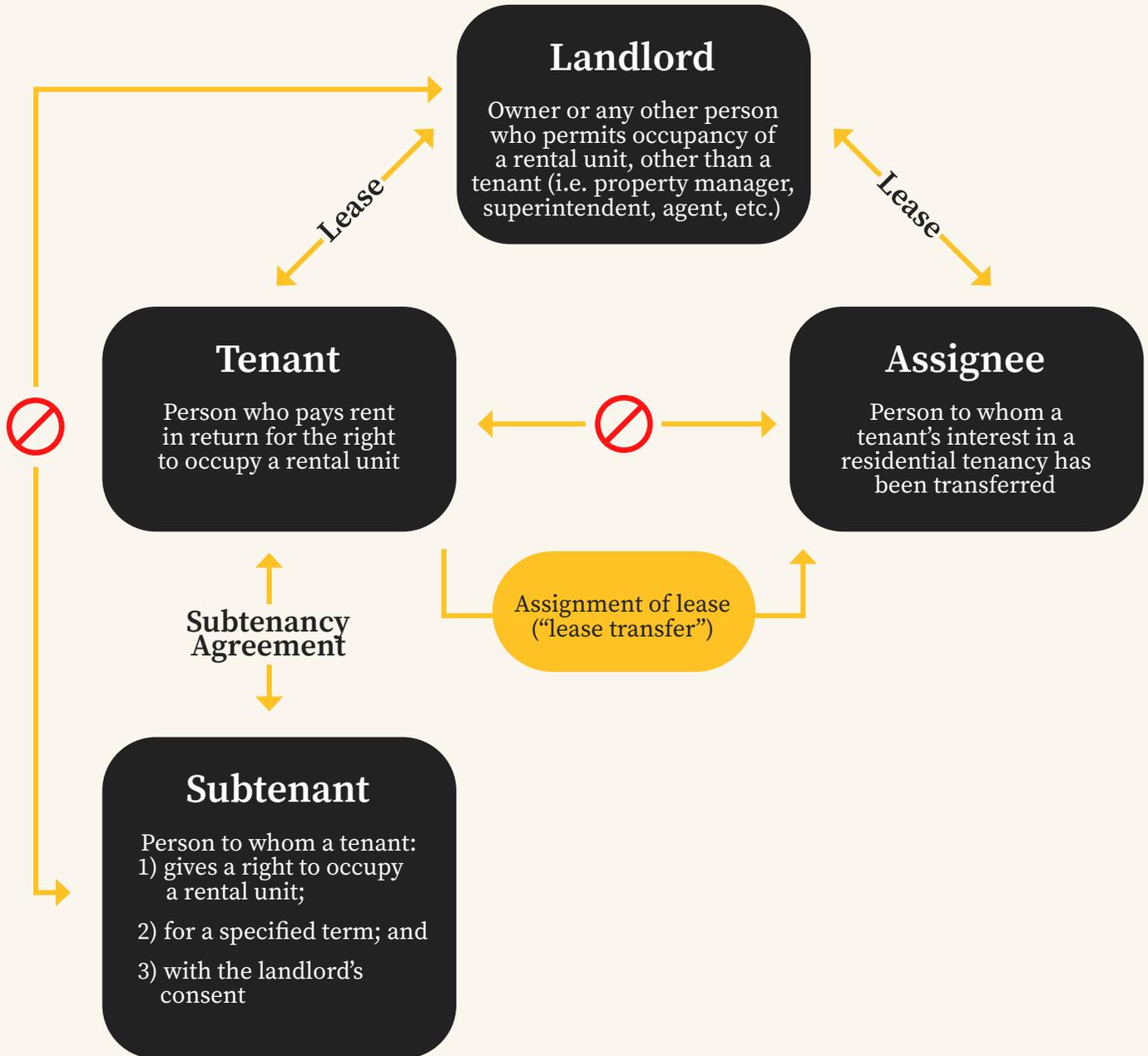
Legal representation

When a case qualifies for further counsel, a lawyer will take charge of proceedings related to housing disputes. This includes legal expenses arising from a dispute over a housing lease, such as a disputed rent increase, an illegal eviction, or a breach of a condition in the lease. Legal representation includes:

- Lawyers' fees
- Legal expenses (disbursements): attendance fees, court fees (except for fees the student may be ordered to pay by the court), and witness expenses
- Fees for an expert witness, up to a maximum of \$1,000

Representation is also available for employment disputes, disputes with an academic institution, and public notaries.

Subtenancy and assignment: How it works



Subtenancy

Assignment

Contract

Subtenancy agreement

- Lease between the original tenant (referred to as the “**head tenant**”) and the new tenant

Lease transfer

- The original tenant transfers their lease to the new tenant (referred to as “**assignee**”). The terms of the original tenancy agreement apply.

Conditions for a valid contract

Four conditions must be fulfilled:

- 1) The head tenant **must vacate** the rental unit;
 - If a tenant does not vacate the rental unit but allows another person to live in the rental unit, the other person is considered a roommate and/or an occupant of the rental unit.
- 2) The term of the sublease **must end on a specified date before the end of the head tenant’s lease**;
 - It is possible to create a subtenancy for one month less one day in the case of a month-to-month tenancy.
- 3) The head tenant retains the **right to resume occupancy** of the rental unit at the end of the subtenancy; and
- 4) The head tenant **must obtain the landlord’s consent**.
 - The landlord shall not arbitrarily or unreasonably withhold consent. If this happens, the head tenant may apply to the Landlord and Tenant Board (LTB).
 - If no consent is obtained, the landlord may apply to the LTB for an order terminating the tenancy and evicting the “subtenant” who is in fact an “unauthorized occupant.”

One condition must be fulfilled:

- 1) The tenant **must seek the landlord’s consent** to the assignment, either general (i.e. “Okay, you can assign your lease to someone”) or specific (i.e. “Okay, you can assign your lease to Jane Doe”).
 - Where a landlord refuses to consent to a general assignment, or does not respond within seven days, the tenant may give the landlord a notice of termination within thirty days after the date the tenant requested consent to an assignment or apply to the LTB.
 - Where a landlord has consented to an assignment in principle (i.e. no paperwork signed), the tenant must still obtain the landlord’s further consent to an assignment to a specific assignee. In that case, the landlord may determine if the potential assignee is an appropriate tenant.

	Subtenancy	Assignment
Period of time	Fixed period; less than the term of the head tenant's lease	For the remainder of the original lease , as per the terms and conditions agreed upon by the original tenant. When the term expires, it becomes a month-to-month lease.
Original tenant's rights and obligations	<p>The head tenant is still liable to the landlord as if still living there; the contractual relationship remains.</p> <p>The head tenant also has a contractual relationship with the subtenant. Certain provisions of the Residential Tenancies Act (RTA) apply, such as arrears of rent, damage to rental unit, interference with enjoyment, etc.</p>	<p>The original tenant will only be liable for breaches and obligations related to the period prior to the assignment.</p> <p>There are no ongoing obligations on the part of the original tenant once the lease has been transferred.</p>
New tenant's rights and obligations	<p>The subtenant is not liable towards the landlord, as there is NO contractual relationship between them. They are only liable toward the head tenant.</p> <p>The subtenant's rights are limited to section 135 of the RTA (i.e. money collected illegally). For any other matters, the subtenant must turn to the head tenant for relief, who in turn <u>may</u> enforce obligations against the landlord.</p>	<p>The assignee is liable toward the landlord, not toward the original tenant, as there is no contractual relationship between the assignee and the original tenant.</p> <p>The assignee steps into the shoes of the original tenant in all respects, and thus is covered by all the protections provided by the RTA.</p>
Fees and costs	The landlord may only charge reasonable out-of-pocket expenses incurred in giving consent to subtenancy.	The landlord may only charge reasonable out-of-pocket expenses incurred in giving consent to assignment (e.g. credit check), and may not be compensated for internal administrative steps.