

# Questions to Think about for Second Class

Law & Economics  
Summer 2020  
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Residential leases are contracts. They are also subject to special regulations. Nevertheless, except for the last question, please assume that leases are treated as ordinary contracts and that no special statutes or regulations apply to them.

1) Suppose Student rents an apartment from Landlord. The lease states that the Landlord will provide the apartment for 1 year, and that Student will pay \$2000 in rent per month. There are some other terms (e.g. no pets), but assume none are relevant to this or other questions. Student really likes the apartment and would have paid up to \$2500 per month for the apartment. Moving from one apartment to another costs the student \$500 (including the value of her time, wear and tear to her furniture, and the fact that she hates moving and would rather spend her time weight lifting). If she couldn't move into Landlord's apartment, her second choice would have cost \$2200 per month and wasn't as nice so she would not have paid more than \$2400 per month for it.

After Student has rented the apartment for 6 months, Banker approaches Landlord and offers \$3000 per month for the next six months for the apartment and requests occupancy tomorrow. Banker loves the apartment so much she would have paid \$4000 per month for it, but Landlord is so thrilled to be offered \$3000 that she doesn't bargain but instead evicts Student immediately and accepts Banker's offer to pay \$3000 per month. Fortunately, Student's second choice apartment is still available, although rent has gone up to \$2300 month, so she moves there.

Landlord must clean and paint the apartment every time there is a new tenant. That costs Landlord \$500.

How much will Landlord have to pay Student in damages (compensation) if a court requires Landlord to pay reliance damages?

- 2) Same as question 1, except a court requires Landlord to pay restitution damages.
- 3) Same question as question 1, except a court requires Landlord to pay expectation damages.
- 4) Did Landlord do the economically efficient thing in evicting Student?
- 5) Which kind of damages – reliance, restitution, and/or expectation damages – induces the Landlord to do the economically efficient thing?
- 6) Is there a reason a Landlord might not evict Student, even if doing so was legal and the increased rent from the Banker was sufficient to cover the damages ordered by the court?
- 7) Same as questions 1-5, except Student really loves the apartment and would have paid \$5000 per month for it.

8) Sometimes, if a contract is breached, a court orders “specific performance.” That is, the court orders the party that breached the contract to perform the contract. (If the breaching party disobeys the order, she goes to jail.) In this situation, if the court ordered specific performance that would mean Student could get an order preventing eviction. Would that be efficient?

9) Are there issues other than economic efficiency that should affect the choice of remedy – reliance damages, restitution damages, expectation damages, or specific performance? If so, what are they and why? Can they be given an economic interpretation?

10) Suppose Student rents an apartment from Landlord. The lease states that the landlord will provide the apartment for 1 year, and that Student will pay \$2000 in rent per month. There are some other terms (e.g. no pets), but assume none are relevant to this or other questions unless otherwise mentioned. After 8 months, a pandemic spreads, and courses go online. Student truthfully tells her landlord, “The apartment is no longer worth \$2000 per month for me. I would pay up to \$500 to stay in the apartment. If you won’t lower my rent to \$500, I’m moving out to live with my parents.” When Landlord refuses to lower the rent, Student leaves. Upon vacating the apartment, Student tells Landlord, “Sorry. I’m vacating the apartment. Since I’m not going to be living in it, I don’t plan to pay rent.” After a month during which the apartment is vacant, Landlord is able to find another tenant, although, because of the change in market conditions, the new lease sets rent at only \$1000 per month for the next three months. Landlord has to pay \$500 to paint and clean the apartment.

If Landlord sues tenant for breach of contract, who should win?

10) If a court rules that Student has breached her contract, how much would Student have to pay if the court awards expectation damages?

11) Same as question 10, except the court awards reliance damages.

12) Same as question 10, except the court awards restitution damages.

13) Did Student do the economically efficient thing in vacating the apartment?

14) Which kind of damages – reliance, restitution, and/or expectation damages – induces Student to do the economically efficient thing?

15) In this context, specific performance would mean that Student would have to continue paying \$2000 per month for the duration of the contract. Would that be efficient?

15) Are there issues other than economic efficiency that should affect the choice of remedy – reliance damages, restitution damages, expectation damages, or specific performance? If so, what are they and why? Can they be given an economic interpretation?

16) If you were drafting the contract between Landlord and Student, would you put in contractual provisions or terms that address events like the ones discussed above – a Landlord receiving an offer to pay higher rent or some event beyond either party’s control (e.g. a pandemic) destroying the value of the contract for one party? If so, what would the contractual

provisions say? Would it matter if you were drafting the contract on behalf of the Landlord, the Student, or a neutral party?

17) What do you think the law should be in the situations discuss above – a Landlord receiving an offer to pay higher rent or some event beyond either party’s control (e.g. a pandemic) destroying the value of the contract for one party? If you think that the Landlord should be required to honor the contract even if it receives a higher offer, but that Student should be allowed to terminate the lease without paying damages or other compensation, what effect might that have on rents?

18) Residential leases are governed by a complex regulatory framework that often limits a landlord’s ability to evict, specifies and limits the damages either party can collect in the event of breach, and constricts the landlord’s ability to raise rents. Why? Are the reasons rooted in economic efficiency or other considerations? If other considerations, what are they? Are these additional regulations a good idea?