

# Lasser Law Group | Real Estate, Construction & Litigation Attorneys

## Lease Conditional Limitation to Collect Rent

Stephen Lasser · Tuesday, November 20th, 2018

Originally published in *New York Real Estate Journal*

Every commercial and residential lease should contain at least one conditional limitation. A conditional limitation is a lease provision that provides for the automatic termination of the lease upon a tenant's failure to cure a default. In New York, most leases have separate and different conditional limitation provisions for non-monetary and monetary lease defaults, although frequently in both commercial and residential leases there is no conditional limitation for monetary defaults at all, thereby requiring landlords to rely solely on statutorily authorized non-payment proceedings to cure monetary defaults. In addition, even though many residential leases, including cooperative proprietary leases, contain conditional limitations addressing both nonmonetary and monetary defaults, currently, New York courts will not enforce conditional limitations addressing monetary default in residential leases because they have been ruled to be against public policy.

In order to understand how conditional limitation provisions work, it is helpful to know that there are basically only two main types of New York landlord-tenant proceedings that landlords can utilize to evict a tenant in default: holdover proceedings and non-payment proceedings.

In its most traditional form, a holdover proceeding is commenced by a landlord to remove a tenant when a tenant fails to vacate (i.e., holds over) in a leased space after the lease term has expired. For example, after the last day of a ten-year office or retail lease, the tenant continues to operate its business in the leased space without the landlord's consent and without a signed renewal.

[Download PDF](#)

This entry was posted on Tuesday, November 20th, 2018 at 6:12 am and is filed under [Bankruptcy & Collections](#), [Landlord-Tenant Litigation](#), [Sales and Leasing](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. Both comments and pings are currently closed.

