

## Farm Management

# Hazard within verbal lease



## Country Council

By ROBERT MOORE

**M**ANY farmland leases in Ohio are verbal agreements and not in writing. In fact, some studies show that 70% or more of all farmland leases in Ohio are verbal.

Verbal leases for up to one year are valid and enforceable under Ohio law. However, verbal leases, by their very nature, typically establish only the very basic of terms. A critical term that is often not addressed in a verbal lease (and some written leases) is the date for notice of termination. This sets forth a set time when the landlord must give notice to the tenant, or vice versa, that the lease will not be renewed for the following year.

Consider the following example:

Landlord has leased 200 acres to a tenant for the past five years on a verbal lease. The only terms discussed were for a year-to-year lease, \$100 per acre, with payment due to the landlord on Dec. 1. In August, the landlord dies. The tenant does not hear anything from the estate and expects to farm the 200 acres for the following year. On Dec.

### Key Points

- Most farm leases in Ohio are verbal agreements.
- A verbal agreement is good for one year in Ohio.
- Problems can occur when one party or another breaks a verbal agreement.

15 the tenant receives notice from the landlord's heirs that the land will be sold and tenant's lease is terminated.

Is the lease terminated or does the tenant have a lease for the following year?

### Unanswered question

Ohio law does not provide a definitive answer to the above question. The tenant could argue that the heirs waited too long to terminate the lease because he had already purchased inputs, marketed grain and anticipated income from the 200 acres. The heirs could claim that the lease runs from Jan. 1 to Dec. 31 and therefore their notice of termination was timely.

If a situation like the one described cannot be resolved between the parties, the matter will go to the county common pleas court. The court will likely look to the customs of the county or area. In some parts of Ohio, the custom seems to be an early fall termi-

nation date, sometimes in September or around the fly-free date — the idea being that the farmer must start planning for next year's crop or even begin planting wheat around this time. Therefore, notice must be given relatively early if the lease will be terminated.

In other parts of the state, Dec. 31 seems to be the deadline for termination notice — the thought being that the lease runs for the calendar year and is not renewed until Jan. 1.

If the court is unaware of or if there are no local customs for termination date, the decision will come down to the judge, and that decision will be completely unpredictable.

Every lease, whether verbal or written, should clearly identify the notification date for termination of the lease. The problem with verbal leases is that the parties may forget what they agreed to or a party may be deceased. Therefore, the best way to remedy the situation is to get leases in writing.

Written leases protect both parties and help avoid disputes and misunderstandings.

It is understandable that many tenants are leery of approaching the landlord for a written lease. The landlord may interpret such a request as questioning his or her integrity or honesty. With land being so hard to come by, the tenant may not want to jeopardize

### Notification termination dates of other states\*

Nebraska .....	Aug. 31
Missouri.....	Jan. 1
Illinois.....	Oct. 31
Kansas .....	Feb. 1
Iowa .....	Sept. 1
Indiana .....	Dec. 1

\*Some dates approximations.

the relationship with the landlord and risk losing the land. Also, tenants may not want to bring up a discussion of terminating the lease and putting unwarranted suspicions in the landlord's mind that the tenant may be considering terminating the lease.

Several states throughout the Midwest have clearly identified termination notification dates established by law. In these states, the tenant is not put into a position where he or she asks for a written lease or brings up the topic of termination; both parties know or should know the law and termination is either given by the specified date or it is not.

Until a termination notification date is established under Ohio law, both landlords and tenants will be at risk of having the lease terminated unexpectedly and at an inopportune time.

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