

LESSON 4: Lease Analysis

1. Answer: 1
Early termination clauses are not common. However, they are typically found in the retail environment, particularly shopping centres where the financial performance of each retail tenant is paramount to the overall success of the centre.

2. Answer: 3
The request for proposal (RFP) process requires significantly more time and financial commitment than the conventional brokerage processes.

3. Answer: 4
Options (2) and (3) are both correct. Loss of control is the most important factor in sub-leasing since the landlord has no direct contractual arrangement. The sub-tenant and loss of excess potential rental income is a secondary issue. The landlord will continue to receive contract rent since the sub-lease agreement does not impact the lessee's legal obligation to pay rent under the terms of the lease agreement.

4. Answer: 3
A government agency [Options (1) and (2)] or a national brand retailer [Option (4)] have the strongest covenants and will likely be able to secure the most favourable lease terms. Therefore, Option (3), a non-government organization such as a charity or foundation will secure the least favourable lease terms.

5. Answer: 3
Since a landlord's market exists and the tenant has a marginal covenant, he or she has limited negotiating power with the landlord. There will likely be no requirement for the landlord to offer any lease incentives, such as free rent.

6. Answer: 2
Option (2) is true because terms sheets are particularly useful for complex lease negotiations. Option (1) is false because the term sheet is not the only legal document accepted by the government of Canada. Option (3) is false because it explains the reason why term sheets are popular in the financial industry instead of real estate development. Option (4) is false because the term sheet is a non-binding document.

7. Answer: 2
Option (2) is false because the rent roll, instead of the lease abstract, acts as a management tool that provides comparisons between a subject property and competing properties or industry benchmarks. Options (1), (3), and (4) are true statements.

8. Answer: 3
Statement A is true (Section 4 of lease). Statement B is false; the lease term is for 5 years (Section 3). Statement C is true (Section 108). Statement D is false; the option to renew is for a 5-year term (Section 111).

9. Answer: 1
All of the statements are true. See Section 11(1) of the lease.
10. Answer: 2

Rent Payable:

Minimum Rent: \$24,000/year, \$16.00 per square foot per year

Storage Rent: \$720/year

Tax $1,500/150,000 = 1\%$ of GLA

$(\$525,000 \div 12) \times 6 =$	\$262,500	(July to December 2020)
$(\$531,000 \div 12) \times 6 =$	<u>\$265,500</u>	(January to June 2021)
	\$528,000	
	$\times 1\%$	
	\$ 5,280	(\$3.52 per sq. ft.)

CAM: $(\$819,000 \div 12) \times 6 =$	\$409,500	
$(\$840,000 \div 12) \times 6 =$	<u>\$420,000</u>	
	\$829,500	
	$\times 1\%$	
	\$ 8,295	(\$5.53 per sq. ft.)

Admin Fee: $(15\% \times \$8,295)$	\$ 1,244	
CAM + Admin:	\$ 9,539	

Percentage Rent:	\$250,000	
	$\times 10\%$	
	\$ 25,000	
	- 24,000	(minimum rent)
	\$ 1,000	

Total: Minimum Rent:	\$ 24,000	
Merchants Assoc. Fees	1,286	
(@ 5% of sum of min. rent, storage, and percentage rent)		
Storage Rent	720	
Taxes	5,280	
CAM + Admin	9,539	
Percentage Rent	<u>1,000</u>	
Total Rent	\$41,825	(\$27.88 per sq. ft.)

11. Answer: 3
If the tenant does not cause the lien to be discharged, the landlord has the right to discharge the lien and to charge the tenant additional rent to cover all related costs (Section 58).
12. Answer: 2
The landlord **can** claim other rights or remedies provided by any statute or rule of law whether it is explicitly contemplated by the lease agreement or not (Section 60).

13. Answer: 1
If the premises was destroyed by fire and cannot be rebuilt or restored within one year after the fire, then, among other things, rent shall be apportioned to the date of when the fire occurred (Section 76).
14. Answer: 1
Option (1) is false; while the landlord has the right to place “for rent” or “for sale” notices on the premises, this opportunity only exists during the one-year period prior to the expiration of the term (Section 67). Option (2) is true; if the tenant is not present to permit an entry into the premises for any emergency where entry is necessary, the landlord may forcibly enter the premises (Section 69). Option (3) is true; during an excavation, the tenant shall permit entry into the premises as the landlord deems necessary to preserve the walls of the premises from injury or damage (Section 68). Option (4) is true; if the tenant defaults in the performance of any covenant in the lease (except a covenant to pay rent) and if the default continues for ten days, the landlord may perform the covenant on the tenant's behalf and enter the premises for this purpose (Section 62).
15. Answer: 4
The tenant pays basic rent, plus proportionate share of taxes and operating costs allocated to the office portion of the building, plus the cost of additional services described in the lease, plus tenant's taxes and other charges described in the lease, only (Section 3).
16. Answer: 3
Option (3) is true. The tenant is only responsible for the proportionate share of the operating costs, which in general is calculated by dividing the square footage of the premises by the square footage of the aggregate rentable area, excluding storage areas, of the building. Option (1) is false; the responsibilities outlined with respect to the payment of the operating costs are typical of a **net** lease agreement. Option (2) is false. After each fiscal period, the landlord will calculate the portion of the operating costs attributable to the tenant, who will then have **30** days to pay the landlord. Option (4) is false; operating costs may be fixed or variable.
17. Answer: 4
Upon a default by the tenant, the landlord must wait 30 days following the default before entering into the premises and exercising its legal rights (as stated in the lease in Section 10).
18. Answer: 4
This lease provides no tenant inducements.
19. Answer: 1
Option (1) is true. The tenant must obtain the consent of the landlord before performing renovation work on the premises. Option (2) is false. The tenant must use contractors and subcontractors that the landlord has approved. Option (3) is false. All leasehold improvements will immediately become property of the landlord, subject to any express written agreement between the landlord and the tenant to the contrary. Option (4) is false. Upon completing any work, the tenant will deliver to the landlord a full set of as-built drawings, which the landlord may keep.
20. Answer: 4
Option (4) is the correct answer because Statements A, C, and D are true. The tenant's goals in lease negotiations include minimizing the total costs of occupancy (including operating expenses), flexibility of use of the premises such as expanding the shop's hours of operation to increase sales, and the option to expand her space if her growing business warrants it. Statement B is false; this is a method used by the landlord to transfer risk to the tenant since in the event the tenant decides to enhance her business by expanding the scope of uses (e.g., converting into a bakery), she may be in direct competition with other tenants in the mall.