

## FACT SHEET

AFZF-JA-ACL

OSJA  
MAJ Seidel, 287-7404  
10 February 2003

**SUBJECT:** Termination of Private Housing Leases Upon Deployment

1. **Purpose:** To inform commanders, staffs, and soldiers that deployment orders do not automatically permit soldiers to terminate housing leases.

2. **Facts:**

a. Deployment orders do not automatically mean that a soldier may legally break a lease. There is no federal statute or regulation that addresses terminating privately negotiated housing leases for deploying active duty soldiers. How and when a soldier may legally terminate a lease is governed by the specific terms of the military clause in the lease. Accordingly, read each lease carefully to determine if the lease can be broken upon deployment.

b. A housing lease is a private contract between the soldier and the landlord. There is no law or regulation that permits the family members of deploying soldiers to break a lease.

3. **Historical Background:**

a. After Desert Storm in 1991, local landlords, many of whom are retired military persons, were left with many units of unoccupied housing. The present "military clause" that is used by the Texas Apartment Association (TAA) was negotiated state-wide to be a fair solution for both parties.

b. Here is the rationale behind a standard military clause. If a soldier receives deployment orders and continues to receive quarters allowance, then neither he nor the landlord would suffer any financial hardship. If a soldier did not continue to receive quarters allowance, then he could terminate the lease to avoid financial hardship.

4. **TAA Standard Lease Contract Military Clauses:**

a. The most common lease used in this area is the TAA standard lease contract. This particular contract permits termination if two conditions are met:

(1) The soldier is deploying to a foreign country; **AND**

(2) The soldier is not continuing to receive quarters allowance (BAH).

b. Most married soldiers will continue BAH entitlement during deployment and therefore cannot legally break the lease due to part (2) above.

**5. Inaccurate Command Memoranda to Landlords:**

a. Recently, some Ft. Hood commanders, in an attempt to "help" soldiers, have signed memoranda addressed to local landlords making a blanket statement that all members of the command will not receive BAH as a result of deployment. Such memoranda are inaccurate, lack legal authority, and appear as bad-faith attempts to intentionally terminate leases in the local community.

b. BAH is a financial entitlement determined by a combination of factors: a soldier's permanent duty assignment, grade, dependent status, and occupation or availability of government quarters. Deployment orders do not automatically terminate BAH, particularly if a soldier is married or has dependents. BAH is determined on a case-by-case basis, therefore, avoid using blanket memoranda.

**6. Work With Local Landlords and Use Our Legal Assistance Offices:**

a. Experience has shown that most landlords will help families with legitimate concerns to terminate a lease early, particularly if a replacement tenant can be found. Landlords are not receptive, however, to widespread blanket terminations of leases. Terminations for "family concerns" can be negotiated with landlords on a case-by-case basis.

b. Our legal assistance offices at 4ID, 1CD, and III Corps stand ready to assist commanders and soldiers and their families about the legal termination of leases and any other legal issue.

**7. References:**

a. Title 37 U.S. Code, DOD Financial Management Regulation, Chapter 26, February 2002.

b. Texas Property Code, Title 8, Landlord and Tenant.

c. Texas Apartment Association Standard Lease Contract.

AUTHENTICATION: COL PATRICK W. LISOWSKI

DATE: 10 February 2003