

The Eight Mistakes Tenants Make When Leasing Office Space

BY BERT ROSENBLATT AND ANDREW STEIN

Hey, we all make mistakes – but when it comes to leasing office space for your business, mistakes equal dollars – sometimes big dollars. Here are the eight most common mistakes tenants make when renting office space, as well as an insider’s take on how to avoid making them.

- 1. Lack of Planning.** Believe it or not, many tenants aren’t clear on what exactly they need. If you’re out looking for ten thousand feet but you actually need fifteen thousand, you’ve got problems.
 - Have an architect do a space program and figure out how much space you really need.
 - A lot of architects will do this for free as a favor to your tenant rep broker. Between a good architect and a good broker you can get clear on things you might not be thinking about, like floor load capacity – do you have a safe or a lot of equipment – then you need reinforced floors.
 - Do you need extra electric to your space? Have special telecom needs? Knowing these details up front will save you time, money and aggravation down the road.
- 2. Lack of tenant representation.** We could write an entire article on the benefits of using a tenant representative (oh wait, we already did!), but suffice it to say there’s really nothing better than hiring one to be on your side. A broker understands the ins and outs of the market; they can negotiate for you, and best of all, can narrow down the buildings that would be best for your particular business. Their know-how and advice are indispensable, and they can prevent you from making some major mistakes which you will pay for down the road. Such is also the case with an attorney. Many tenants hire lawyers that don’t specialize in commercial real estate – this is a mistake. Like your tenant representative, you need an attorney that understands the monster that is commercial real estate.
- 3. Lack of document inspection.** Leasing an office space means a whole lot of paperwork. One of the most common mistakes tenants make is that they’re not careful enough with what they sign. Everyone should read the documents – you, your attorney and your broker.
 - Landlords think long and hard about how to make as much money as legally possible on their buildings. The 70 page lease document they give you is not designed to be fair. It is explicitly constructed to make them money.
 - Further, the ownership documents need to be vetted too. Make sure your space is legally zoned for commercial purposes and for your use in particular, and that it conforms to various safety codes and is built in accordance with the prevailing rules and regulations.

- Have the HVAC (air and heat) unit in your space inspected before you sign the lease. Landlords will routinely say in the lease that the unit is in good working order. But they often presume this to be true but don't actually check. If you take possession and the HVAC unit needs to be replaced, it will cost you a big chunk of change.

4. Rent and security deposit. Before agreeing to the monthly rental, many people do not benchmark similar properties, and end up paying rent through their nose. It is important to compare similar office properties and find out the going market rent in that area before entering into negotiations with the owner. This is Real Estate 101 for tenant rep brokers. Hire them - they know what they're doing. The security deposit must also be based on demand, supply and the regular market norms. However, if the owner of the office space seems to be in a tearing hurry to rent out his place, you can always negotiate with him and save yourself some money. Again, this is where a tenant representative comes in handy; he/she will do all of this dirty work for you!

- Landlords typically want the security deposit as a letter of credit ("LC") from a bank as opposed to cash or a check. The reason for this, at least in NYC, is that if a tenant goes bankrupt, the court takes control of cash and it goes to all sorts of creditors before the landlord gets paid. An LC, on the other hand, remains with the landlord through bankruptcy proceedings.
- It takes a long time to get an LC. Don't think it will happen overnight. 2-3 weeks is common.

5. Not checking lease terms. A tenant must read and understand the lease terms carefully.

- Are you comfortable with the notice period? Let's say the landlord has the right to relocate you to another floor or space in the building (something that is common for

smaller deals) – how much notice do they need to give you?

- What if the lease says 30 days? Can you really pack up and execute a move of both your physical stuff and your technology in 30 days? Probably not.
- Do you have a sublet and assignment provision? Is it fair?

6. Underestimation of negotiating leverage. Tenants have a tendency to think that the landlord is all-powerful, but that's not the case. Ultimately, a landlord is in a service business, and his business is to keep his building full. If this means he has to negotiate with his tenants to fill his spaces, he will. This is especially true for small tenants – even if you're a five person firm in a million square foot building – you have more value than you think. 90% of the tenants in New York are small tenants. There are only so many big corporations out there.

7. Working with a biased broker. Tenants sometimes feel that if they're hiring a big real estate company, they'll be better represented.

- The big firms that represent both tenants and landlords will argue that they know all the angles.
- While this is true, the reality is that their loyalties always lie with the landlords. When it comes down to it, a big firm will side with the landlord over the tenant. I mention this because a landlord who owns several buildings is always going to be a more valuable client to a big firm that represents landlords and tenants.

8. Too little time. Tenants drastically underestimate how long it takes to renew a lease or to move. Depending on how much space you have and how complex your technology is, it could easily take 8-12 months to negotiate your deal.

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