

Motion to Assume or Reject Executory Contracts and Unexpired Leases

Docketing Event

Bankruptcy > Motions/Applications/Objections > Motion to Assume or Reject Lease/Executory Contract

Negative Notice: Chapters 7, 12, 13 only

Accompanying Orders: N/A

Code and Rule References:

[11 U.S.C. § 365](#)

[Fed. R. Bankr. P. 6003](#)

[Fed. R. Bankr. P. 9014](#)

[Local Rule 2002-4](#)

Fee: N/A

Applicable Chapters: 7, 11, 12, 13

Implemented: 2/9/2016

Last Revision: 1/23/2018 11:00:22 AM

Description

Subject to the Court's approval, the debtor, debtor-in-possession, or trustee may assume or reject an executory contract or unexpired lease of the debtor. Parties in interest may file a Motion to Compel or require the trustee, debtor, or debtor-in-possession to determine whether to assume or reject a contract or lease in any Chapter.

11 U.S.C. § 365 (d)(1) states that if the trustee in a Chapter 7 case does not assume or reject an executory contract or unexpired lease of **residential real property or personal property** within 60 days after the order for relief or within such additional time as granted by the Court, then such contract or unexpired lease is deemed rejected.

11 U.S.C. § 365 (d)(4) states that in a case under any Chapter, if the trustee does not assume or reject an unexpired lease for which the debtor is lessee of **nonresidential real property** within 120 days after the date of the order for relief or the date of an order confirming the plan, the lease is deemed rejected.

Under Federal Rule of Bankruptcy Procedure 6003, a Motion to Assume or Reject an Executory Contract or Unexpired Lease under Section 365 cannot be granted within 21 days of the filing of the petition unless relief is necessary to avoid immediate and irreparable harm.

Filing Checklist

Review the motion to determine if:

- The motion is signed;
- The motion has the attorney's name and address complete and consistent with the filing attorney's name and address in CM/ECF;
- The motion is properly served and includes a proper certificate of service; and

- The motion is filed with negative notice that contains the correct language and is located on the first page (if filed in a Chapter 7, 12, or 13 case).
 - ❖ **Note:** Response period is 21 days (plus an additional three days for service if any party was served by U.S. Mail).