



THE BENEFITS OF A WRITTEN LEASE

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Most farmers in Ohio, and around the country, rely heavily on rented ground to maintain their operations. But negotiating and maintaining a successful relationship between landlord and tenant can often be a difficult task. The landlord likely wants fair and reasonable compensation, and to make sure the tenant is exercising good stewardship over the land. The tenant likely wants a long-term commitment on the land that will allow him the right to farm the ground for years to come. To further complicate matters, often times these farm lease agreements are done without any written documentation as to the expectations and requirements of the parties. The question then becomes how does each party guarantee their expectations will be met?

There is a long standing tradition in agriculture of honor and integrity in one's business dealings. Terms such as "my word is as good as my bond" or "we'll settle it with a simple handshake" are commonly used when reaching these types of agreements. It is a privilege for me to associate with a community of such integrity, and I hope the notions of honor and integrity in agriculture will continue. However, there is a common misconception that if someone asks for a written agreement he has something to hide. I would argue the opposite. By asking for a written agreement he is not attempting to hide something, but is further reinforcing his commitment to stand by his word. Verbal agreements may be sufficient for many situations, but when it comes to something as complex as leasing land, it is in the best interest of all involved to enter into a written agreement. With a written agreement both

the farmer and the landlord can be sure the requirements of the lease are understood by all, and followed. The landlord can then include specific terms regarding the care of the land, perhaps including soil test and nutrient replacement requirements. The tenant likewise can negotiate a longer lease term and feel more comfortable improving and caring for the land knowing he will likely be the one to benefit from his efforts in the future.

I often hear the concern that a written contract will in some way restrict the actions of the parties involved. One tenant even told me once he wished he could do more for his landlords, but he couldn't because he was restricted by the terms of the agreement. It is important to remember a written contract is simply a natural extension of the verbal agreement reached by the parties. Just as with a verbal agreement, if one of the parties finds the terms of the agreement are not working, the two parties can revise the written contract by simply putting the new provisions in writing and signing it. Further, any contract, verbal or written is never intended to be a ceiling, but rather a floor. A contract establishes the baseline requirements of both parties. There is nothing preventing anyone from doing more than the contract calls for. For example, if a tenant wants to mend a fence or mow grass for the landlord, nothing is preventing the tenant from doing so as a gesture of good will. A written agreement simply spells out the terms of the agreement to prevent confusion and provide added protection to everyone involved.

Before entering into any lease agreement it is important to keep in mind a few specific legal requirements. First, it is important to understand a verbal lease agreement is generally unenforceable until the tenant begins some sort of work on the land, and is only enforceable for up to a one year term. Any lease for more than one year must be in writing to be enforceable. In Ohio, any lease for four years or more must be in writing and must be notarized to be valid and enforceable. It is also advisable that any lease for four years or more be recorded. This will



effectively notify any future buyers or lessors of the property that there is a current lease on the property. This can help protect the tenant from early termination of the lease, and the landlord from any potential lawsuits for non-disclosure of the lease. Finally, when entering into a written lease, the document must be signed by both parties. Often times there is confusion about how a document should be signed, particularly when the land is held in a trust, partnership, or LLC, or the tenant farmer is renting the land on behalf of a partnership or LLC. The general rule of thumb when executing any document is to sign on behalf of the entity that is part of the agreement. For example if the land being leased is in a trust, the landlord should sign the document as trustee of the trust, if the tenant is farming the land under the name of an LLC he should sign as a member of the LLC.

If executed properly, a written farm lease can provide added protection to both landlord and tenant, as well as enforcement power if the lease terms are not followed by either party. Such agreements can add needed clarity to farm leases as well as improve landlord and tenant relationships by clarifying the requirements of each party under the agreement. In the end, all parties involved benefit under a written lease agreement. As with any legal document, it is advisable to seek the advice of a competent attorney before entering into any lease agreement. ■

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