



## **Do Farmers Have Adequate Protection in a Holdover Lease? Policy Development 2013**

### **Issue:**

Land rental agreements are an integral part of farming. It is very common for rented land to make up a sizable portion of a farmer's total operation. There are many types of rental agreements. A typical rental agreement that exists across the state is an oral lease agreement. These leases are usually based on a "handshake agreement" and the farmer keeps control of the land based on a past agreement. Written contracts are the most secure option for farmers and landowners however, the handshake agreement is still common. Competition for farmland, changes in ownership, and estate settlements have increased the number of disputes between farmer tenants and landowners wanting to terminate the oral agreement. No statutory law protects farmer tenants in this type of dispute. Even though this court case has stood the test of time, it can be overturned.

### **Questions:**

1. Should Farm Bureau support placing the termination notice requirements in the *Smith et al. vs. Holt* case in state law for farm holdover tenants?
2. What are the drawbacks for having notice requirements in state law?
3. Is six months notice for terminating yearly leases sufficient notice?

### **Background:**

A "holdover tenant" is defined as someone who remains in possession of real property after a previous tenancy expires. When a landowner makes a handshake agreement with a farmer there is nothing in writing to spell out the terms of the agreement. It is basically assumed the farmer is a tenant on the property from year to year after the initial agreement allowing the farmer to be a tenant on the property if the landowner continues to take the rental payments. As a result, the farmer becomes a holdover tenant.

In the 1945 case, *Smith et al. vs. Holt*, the Tennessee Court of Appeals ruled in favor of the tenants who were considered holdover tenants based on the facts of the case. The property owner in the case decided to terminate the tenancy without sufficient notice. The court addressed what is considered sufficient notice before such a lease can be terminated. The court ruled: "A *periodic tenancy resulting from the tenant's holding over with consent of the landlord is generally regarded as a tenancy of indefinite duration so that neither party can terminate it without sufficient notice to the other. If the tenancy is from year to year, the notice must be given six months before the end of the year; if it is from quarter to quarter, month to month, or week to week, a notice of a quarter, a month, or a week, respectively, must be given before the end of the period.*"

Over the years it has become common practice for landowners who wish to legally terminate a holdover farm lease to provide farmers a written notice of termination prior to July 1. It is believed this practice stems from the *Smith et al. vs. Holt* case. Because this practice is not in state law, many farmers and landowners are not familiar with this requirement or the case. Requiring sufficient notice is important for the farmer and the

landowner. For both parties there are financial consequences if either the landowner or farmer terminates the lease without giving the other party sufficient time to make alternative plans.

Even though this practice is common for farmers and landowners who want to legally terminate this type of lease, it is not law. It only carries the effect of law because of the court precedent. Court precedents can be overturned or changed at any time by another court. Also, any case that involves holdover tenants of all types can affect this case. For example, someone could bring a case involving a duplex rental. If the court changes any part of *Smith et al. vs. Holt* it could change termination notice requirements for all farmers and landowners.

**Farm Bureau Policy:**

There is no policy regarding termination notice for holdover tenants.