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RESEARCH ARTICLE

AUTOMATIC RENEWAL OF THE LEASE ACCORDING TO THE JORDANIAN CIVIL CODE AND THE SUCCESSIVE LANDLORDS AND TENANTS LAWS

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ABSTRACT

This paper discusses the provisions of the Jordanian laws related to leases in terms of the adoption of automatic renewal principle of the contract, which in turn leads to the extension of the validity of the contract as well as the automatic renewal of the conditions stipulated therein including rental allowance.

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INTRODUCTION

Perhaps the main factor for the adoption of some legislations, including the Jordanian law, is the principle of automatic renewal because of the historical roots of this principle, which emerged after World War II. Whereas before World Wars, the leases were agreed upon by the parties. However, after the First and the Second World Wars and the existence of destruction, the housing crisis emerged. This effect extended to all the countries of the world, even the non-warring ones, so landlords took advantage of this and raised their rents. For this reason, lawmakers have intervened and enacted extraordinary laws for the automatic renewal of leases by the force of law, where the judiciary helped in that. The purpose and the reason beyond that automatic renewal was to avoid damage to the weak party (tenant).¹ In the past, the Jordanian law adopted the principle of automatic renewal of the contract, meaning that the lease contract is renewed automatically and with the same value of the rental fee for new periods.

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¹Yakun Z., Tenancy Contract, Modern Library Publications, Beirut, p:152-153.

Accordingly, pursuant to these previous laws, there was no value to determine the duration of the contract in the contract provisions, because the law gave the tenant the right to extend the contract regardless of the period specified by the parties to their contract, or the will of the lessor. Even if the parties are not agreed to the automatic renewal of the contract, this shall not preclude the automatic renewal of the contract by law. Consequently, the lessor could not increase the amount of the rental fee despite the expiry of the period specified in the contract. However, this issue has raised complicated concerns in terms of landlord-tenant relationships. For example, if a person rents a property for housing long years ago, and the parties agree on the value of the rent, supposed to be 500 Jordanian dinars per year provided that the period was specified for one year. According to the principle of the automatic extension or renewal of the lease, the tenant can stay in the leased premises for the following years despite the expiration of the agreed annual contract period. However, the problem which raised here is that the value of the rental allowance remains the same without any modification. Which in turn led to the survival of most tenants in the property leased for many years and long and led to a minor continuous rental amount. Nay, is what can be called nil compared to the inflation rate for decades. For example, the residential property with an annual rent of 500 JD became, due to the annual inflation, for example, between 7000 and 8000 or even 10,000

JD depending on the duration and the economic development. This has, of course, caused great damage to the landlord and created social problems through the emergence of disputes between the contracting parties. Therefore, and to regulate the relationship between the landlord and the tenant, and to prevent the injustice against the landlord, as much as possible, the legislator intervenes several times by amending the law of the Landlord Tenant Law to treat fairly with the contracting parties and solving such great social problem. Thus, we will show hereafter the evolution of the problem of automatic legal extension by keeping the same value of rent under the successive Jordanian legislations. The Jordanian law of Landlords and Tenants No. (11) of 1994 is considered the basis. This law, however, was amended several times as of the Laws No. (30) for the year 2000, the Amended law No. (17) of 2009, the Amended law No. (22) of 2011 and finally the Amended law No. (14) For the year 2014. Thus, we are going to discuss the effect of the amendment of the Automatic Renewal Principle of the lease under these laws, through the following:

The Principle of Automatic Renewal of the Lease and the Rental in accordance with the previous Amendments to the Landlords and Tenants' law No. (30) for the year 2000

Lease contracts concluded prior to 31 \ 8 \ 2000 according to this law: The revocation of the automatic renewal in this law did not include the contracts signed before 31/8/2000, where Article (5) of the previous law was amended to provide for item A of the first paragraph of Article (3) of the Law No. (30) of 2000 as follow: "The tenant has the right to continue the occupancy of the leasehold after the end of the period of his contractual rent, in accordance with the terms and conditions of the contract in respect of the lease contracts in force before the entry into force of the provisions of this law, provided that these contracts expire on 31/12/2010 unless the owner and the tenant otherwise agreed". This provision means that Automatic Renewal continues for leases concluded before this date, but the legislator has specified the date of 31/12/2010 for the completion of such renewal. However, this date came by the existence of the new Landlords and Tenants law, and then this rule of the Article did not apply. That is, the contract is renewed automatically according to this law for the contracts before the date of 31 \ 8 \ 2000, even if the parties remain silent about the possibility of automatic renewal of such lease.

Lease contracts concluded on 31/8/2000 and beyond: This law has settled the issue of automatic renewal, because it canceled this extension of the lease contracts after the date of its entry into force. The lease contracts concluded after 31/8/2000 shall be considered according to the general rules stipulated in the civil law. Consequently, the contract shall not automatically renew. Rather, it shall be governed by the conditions contracted between the parties, including the duration of the contract. Article (3) of the Law No (30) for the year 2000 stipulates that "Tenancy contracts which take place after the entry into force of this Law shall be governed by the terms of the agreed contract whether the property is for housing or otherwise. The lease contract shall expire upon the expiry of the agreed period". This means that the contracts concluded after the endorsement of Law No. (30) for the year 2000, i.e. the contracts concluded after 31/8/2000, shall be subject to the principle "Consent makes the Law".

The Principle of Automatic renewal of Lease and Rental in accordance with the Landlord and Tenants Law No. (17) for the year 2009

Lease Contracts Concluded before 31/8/2000: As above mentioned, the previous law of this law No. (30) for the year 2000 gave a deadline for the Automatic Renewal of for leases contracts and rental concluded prior to 31/8/2000 as of 31/12/2010. This law came into effect before the date of this deadline and cancelled the previous provisions. Section (A) of the first paragraph of Article (4) stipulates that: "Under leases contracts concluded prior to 31/8/2000 the tenant shall have the right to continue occupancy after the end of the period of the tenancy lease in accordance with the terms and conditions of the contract thereof". This law specified detailed clauses for the termination of housing contracts on the one hand, and the termination of contracts for non-housing purposes on the other hand. Where it has explained how to calculate the years of termination of these contracts. Therefore, this law came to give new time and a new mechanism for automatic renewal. It gave each contracted category a number of contracting years with a year of deadline, and it also differentiated between housing and non-housing lease contracts. For example, in terms of lease contracts concluded for housing purposes, if it came into effect on 1/1/1995 until 30/8/2000, it shall expire on 31/12/2015 and so on. In other words, this law canceled the previous period for the termination of the contracts before 31/8/2000, which was set on 31/12/ 2010. This amended law sets out new periods for the termination. It also relied on the principle of graduation of the termination of leases according to the provisions of the law therein, which indicated the duration of the housing or commercial properties.

The lease contracts concluded after 31/8/2000 up to the date of Law coming into force on 1/11/2009 provided that a contract states on the Automatic Renewal

If such condition found and agreed by both parties, then according to the previous laws that provides for following the "Consent makes the Law" principle, the contract will be renewed for a period of 30 years, according to Article (671) of the Jordanian Civil Code, which states: "The duration of the lease shall be known and it shall not exceed thirty years. However, should the period exceeds thirty years, then it shall be determined by thirty years. And if there is a demand for an Automatic Renewal, then this law shall be renewed for the longest period which is 30 years.

The lease contracts concluded after 1/1/2009, provided that a contract states on the Automatic Renewal

In this case, the law gave a new provision as provided in Section (2) of the second paragraph of Article (4) of the Law No. (17) for the year 2009, which states that "If the contract provides for its renewal automatically (according to this law), the contract shall be renewed by law for a similar contractual period and only for one time. Unless the tenant informs the lessor of his unwillingness to renew the contract before the end of the original term. This means that the clause deals with the condition of a contract text on the renewal of the contract and gives the tenant the right to extend the contract and the contract for another similar contracting period for only one time. This provision is contrary to the provisions of the previous law which left the matter, in case there is an

automatic renewal of the lease agreement, to the rules of the law for the longest period of thirty years. However, this law gave a decision to renew the contract for only one contracting period and not to remain the idea of renewal for 30 years as provided in Article (671) of the Jordanian Civil Code. This rule, however, applies only to the contracts concluded after 1/11/2009, the date of entry into force of this law.

Automatic Renewal of the Lease contract and Rental Under the previous Landlord & Tenants Law No. (22) for 2011

Lease contracts concluded before 31/8/2000: Article (2) of this law specifies the legal extension of the lease. Section (1) of Paragraph (A) of Article (2) provides that: “the tenant upon a lease concluded before 31/8/2000 may continue to occupy the leasehold after the end of the contractual period in accordance with the provisions of the contract, i.e. the owner shall not be entitled to the eviction, however he or she is entitled to demand the equal rent as provided in section (2) of paragraph (A) of the same Article by agreement between the owner and the tenant. where it states: “Upon the entry into force of the provisions of this law, the rental shall be amended in respect of the contracts referred to in item (1) Of this paragraph by the agreement between the owner and the lessee, and if they do not agree, either of them may apply to the competent court to which the property shall be subject. to recalculate the leasing allowance in proportion to the equivalent rent of the real estate at the same site. And the court shall decide on the application within a period not exceeding six months from the date of its submission. The decision shall be null and void from the date of submitting the application”. It is apparent that the legislator returned to the principle of legal extension of the lease (after the previous laws set out the term of termination of the tenancy contracts) however in a new, fair format, linking this Automatic Renewal to ask the tenant pay the equivalent rent and thus achieved stability and security for the lessee.

The law also canceled the provisions of the previous law, which deals with the amendment of the rent allowance through legal increases. The two researchers, herein, believe that this decision is closer to the justice between both parties not as it was before. Where the previous laws sometimes give automatic renewal without any increase in the amount of rent, which generated great injustice to the landlord, and sometimes the laws were adopted by giving time for the termination of the leases which generated great injustice to the tenant. If the rent is not residential, or loses its housing if the rent is residential, then the principle of relying on fair rentals is equal to the parties. The lessor will receive a fair rent for what the real estate is entitled to, and the lessee will not lose his rent or abandon it. This means that one of the two parties to the contract can apply to the court to estimate the rent for the rent according to the real data of the leased property through the knowledge of the location of the leasehold and the modernity of the construction and area, etc., estimated by the court through experts. Further, the legislator provides in Article (16) of this law that the rent shall be amended every five years of legal extension contracts. Therefore, the amendments to this law were the scope of contracts concluded before 31 August 2000 and shall not include the contracts concluded after this date and therefore subject to the Civil Code and in accordance with the principle “Consent makes the Law”.

In a decision issued by the Court of Cassation, it was clarified that it is benefited from section (1) of paragraph (b) of Article (5) of the Landlords and Tenants Law, which was amended by the Law No. (22) of 2011 in effect on 31/12/2011. Where this paragraph became with its new two sub-paragraphs to provide that the lease contracts concluded on 31/8/2008 and beyond as well as to provide for the Automatic Renewal of the lease. the lease is renewed by law for a similar contract for one time only. Since the amended law referred to above shall be effective from the date of its publication in the Official Gazette on 31/12/2011 and shall not be applied retrospectively, as it did not expressly provide for the reaction, it shall apply to leases that expire after the date of its entry into force. Since the lease contract between the parties to the case was concluded on 1/2/2004, i.e. after 31/8/2000 and the duration of the lease shall be on annual basis and includes a text that the lease shall renews automatically. After the effective date of the amended law, it shall end on 1/2/2012 under Article (5 /b /(1)& (2) of the Landlords and Tenants Law and shall be renewed for a period of one year by virtue of the law, i.e., until 1/2/2013. As the several has filed her claim on 2/2/2012 before the expiry of the renewed period of lease by law and while she demanded the eviction and delivery of the leasehold due to the expiration of the contract, then this case is premature and required response.²

Lease contracts concluded on 31/8/2000 and forward: These contracts shall subject to the principle of “Consents makes the law” either in case of housing leaseholds or otherwise, as previously mentioned.

Automatic Renewal Principle and rental under Landlords and the effective Tenants Law No. 14 for 2013

Lease contracts concluded before 31/8/2000 under this effective law: Section (1) of paragraph (A) of Article (5), of this law provides that: “Notwithstanding any contrary agreement, the lessee shall have the right, under a lease contract concluded before August 31, 2000, to continue the occupancy of the leasehold after the end of the period of the tenancy lease in accordance with the terms and conditions of the contract”. Therefore, according to this article, the contracts concluded prior to this date are subject to the principle of legal extension, but the increases mentioned in this law shall be taken, i.e., the rent allowance is adjusted according to new mechanisms that differ from the previous laws. This is stated in section (2) of Paragraph (A) of Article (5) of this law, as it provides: “By taking into account the legal increases that have occurred on the leasehold rent of the properties leased prior to August 31, 2000 under the previous legislations on the coming into force of the provisions of this law or by agreement between the landlord and the lessee, and by adding the rentals to all the properties leased for residential purposes or otherwise, by fair relative increase, determined by the cabinet, upon the entry into force of the provisions of this law, provided that such increase is realized for justice and social peace in the various regions of the Kingdom or any part thereof”. The two researchers, herein, believe that the legislator has withdrawn from the application of the principle of remuneration of the example immediate effect and not retroactive in the law No. (22) for the year 2011 for leases

² Decision of the Jordanian Court of Cassation (Rights) No. 687/2014 (Ordinary Panel) dated 7/8/2014.

concluded before 31/8/2000 and replaced by the system of proportional increases on rental allowance No. (78) The Law of Landlord Tenant Law No. (14) of 2013 abolished the rent of the example, and this cancellation was an immediate effect. Also, the adoption of fixed rate increases might be unfair, as the leasehold is different from one site to another, and therefore the properties in which the development of urbanization or trade would be entitled to increase more than residential or commercial properties that turned from developed areas to popular areas. The regulation related to the coverage of lease contracts was based on the relative increases that came in a special regulation. These increases were based on two issues. The first is the rental agreed by the two parties, adding the increases mentioned in the Law No. (22) of 2011. The second is taking into consideration the modified agreements between the lessor and the tenant after the date of the last legal increase which we will explain it in detail later. This also included the cancellation of cases pending before the courts and excluding cases in which peremptory judgments were issued.³ Note that this law abolished section (2) of paragraph (a) of Article (5) of the previous law and replaced it with items (2, 3 and 4). However, the Annual Relative Increases on Rentals No. (78) for 2013, states in Paragraph (A) of Article (2) what meant by (Last Rental) as: “Rental of leaseholds leased for the purpose of housing or otherwise before 31/8/2000 in addition to the legal increases thereof in accordance with the previous provisions before the amended Landlord and Tenants Law No. 22 for 2011 enter into force or upon the agreed increases on rental between the owner and the tenant in any time before the entry into force of the Landlord and Tenants Law No. 14 for 2013. Where Paragraph (B) of the same Article (2) states : “to add a rate of (25%) of the last rental to the rentals for housing before 31/8/2000. However, Paragraph (C) provided that an increase rate shall be (35%) of the lease rental for non-housing leased properties before 31/8/2000.

Article (3) of this Law stipulates that “If the rental is amended after the date of the last legal increase by agreement between the landlord and the lessee, which is less than the rent determined under the provisions of paragraphs (b) and (c) of Article (2) of this Regulation, then the rental shall be amended to equal the rental specified by the provisions of the above two paragraphs. However, if the rental by agreement is greater than the one determined under the provisions of either of the said paragraphs, the amended rental shall remain binding until it is reviewed in accordance with the provisions of Article (5) of this Law”. According to these Articles, the two researchers, herein, believe that if there was an agreement between the lessor and the lessee to increase the rent after the issuance of regulations to determine the legal increases, it would be possible to:

The first possibility is that the increase in the rent agreed upon by the lessor and the lessee is less than what was stated in this regulation of increases mentioned previously in paragraphs (b) and (c) of Article (2), then the agreement shall not considered. Rather, the rent shall be amended, the highest rent shall be

taken between the increase by agreement of the parties and the increase in accordance with this regulation. The second possibility is that the increase in the rental agreed upon by the lessor and the lessee is greater than what was stated in this regulation of increases, mentioned previously in paragraphs (b) and (c) of Article (2), then the agreement of the parties shall be taken and the rent shall not amended in accordance with this regulation, i.e. the highest rent shall be taken between the increase by agreement of the parties and the increase in accordance with this regulation. Article (5) of this regulation stated that the rental provided for in Article (2) of this regulation shall be reviewed by the cabinet once every five years. In the opinion of some⁴, the lease during the course of its validity has always a strong party and a weak party and such positions turn from time to time between the lessor and the lessee, where the tenant has, in most cases, a stronger negotiating position upon signing the lease contract for many options available before the contract is concluded. Contrary, it turns out to the landlord to be a strong party in the lease, if there is no legal provision that allows the automatic renewal of the contract, it also turns out to be the tenant to become the strong party in the contract with the principle of automatic renewal. Therefore, the legislator failed when enacted the Relative Increases Regulation by adopting the concept of the strength and weakness of the contracting parties at and beyond the conclusion of the contract. As what could be agreed upon, of rent amount, by the parties may be exaggerated as in the period of the agreement, the landlord was the strong party and given the tenant fear of losing the lease contract, therefore he or she will pay any rent required thereof. And this law came to give a new principle which is the to take the highest rent between what was agreed by the parties or the regulation of relative increases, and it was better for the legislator to continue to take the Equivalent Rent, which is more equitable for both parties.

However, in the absence of agreement upon the rental increases between the lessor and lessee, the rental shall be calculated in according to the Relative increases regulation. Further, Article (16) of the Landlord & Tenants Law provides for the rental amendment every 5 years for Legal Extension Contracts, where this Article states: “Rental shall be reviewed every five years in accordance with Section (2) of Paragraph (A) of Article (5) hereof”. Some attributes the increases within the successive Landlords and Tenants laws to the minor amounts thereof. The reasons for these increases are the problems of applying the legal automatic extension of the tenancy contract adopted by the Jordanian laws on leases. Therefore, the rental contract is renewed even if the lease term is terminated. Consequently, the rental fee remains automatically renewed. Therefore, this extension is effective by law for an indefinite period. Where the appropriate and fair rent at the time of contracting become after the legal extension trivial or minor due to the currency price fluctuation or due to the occurrence of waves of economic inflation and the inability of the owner to raise its price.⁵

Lease contracts concluded on 31/8/2000 and beyond under this effective law: The leases concluded on 31/8/2000 and beyond are governed by the general rules of the Civil Code and as agreed by the parties in the contract, that is, the

³Article (4) of Law No. (14) of 2013, which stipulates: “The provisions of this Article shall apply to the foreseeable cases that have not been decided by a final judgment prior to the date of entry into force of this Law. The lawsuits referred to under Law No. (22) of 2011, Shall be subject to the increases provided for in this Article before the passage of ten years from the date of entry into force of the provisions of this law”.

⁴ Counsel and Attorney: Nabeel Ahmed Abu Ghazalah.

⁵Al-Obaidi A. (2015). the Specific Contracts, Sale and Lease, Dar Al-Thaqafa for Publishing and Distribution, Amman., p: 242.

principle of automatic renewal of the contract and the rent shall not apply, but what applies is what the parties have agreed upon. In other words, this regulation of legal increases shall not apply to the rentals concluded after 31/8/2000. As relative increases include leases concluded prior to 31/8/2000 only. In a decision of the Jordanian Court of Cassation, it was decided that the contracts concluded after August 31, 2000 are governed by the principle of renewal only by the agreement of the parties thereof. The facts of the case indicated that it benefited from Article 5 / B / 1 of the Law No. 30 of 2000, under which the lease was concluded, which provides for "the contracts concluded on 31/8/2000 and beyond shall be governed by the agreed terms of the contract thereof, whether the property is intended for housing or otherwise and the lease contract expires at the end of the agreed period. As the lease date starts on 19/1/2004 and ends on 19/1/2011 as stated in the contract and in the allocated box for the duration of the contract, this contract shall not be renewed unless the parties agree, in writing, and once the plaintiffs have indicated their desire not to renew the lease contract and demand eviction of leasehold on due date and the warning of the tenants under the above-mentioned forensic warning. The defendants, despite being notified of the judicial warning, did not proceed to evict the leasehold.

The court also found that the defendants' performance in the payment of the due rentals on time shall not mean that the plaintiffs have agreed to renew the lease contract as long as the lease expires at the end of the contracting period. This decision also ends with the appeal of the appeal. Thus, the defendants' hands on the leasehold after the expiry of the lease period shall be deemed Unlawful Detainer, in accordance with the provisions of Article (279) of the Civil Code.⁶ As it was concluded by this decision and also ends with the appeal from this side.⁷ In addition, in a decision of the Jordanian Court of Cassation, the Court clarified the causes and consequences of cassation, which is all attributed to single outcome, namely the criticism of the First Instance Court, in its capacity as Appellate Court, for supporting the decision of the Magistrate Court to compel the defendant to evacuate the leasehold and hand it over to the appellants in contravention of the provisions of Article (707) of the Civil Code. Thus, we find that the defendant had rented from the two plaintiffs the property of the allegation which is a warehouse with three front doors on the main street and a back door in the industrial area of Bayader Wadi Assir as of 1/1/2001 at an annual rental of three thousand Dinars paid on monthly installments at (250) Dinars paid monthly in advance, provided that the lease contract is (annual and shall renewed automatically for each year). It's also found that the plaintiffs sent a notice to the defendant that they do not wish to renew the contract after the end of the contractual year on 31/12/2012 and asked the defendant evacuate the leasehold not later than 31/12/2012. The, defendant, however, has been notified of this warning on 21.10.2012. Since the lease contract was concluded on 1/1/2001, it is subject to the provisions of the contract thereof,

⁶Article (279) of the provisions of the provisions of the provisions of rape and encroachment "1 - A hand shall be debtor until it performed what it had took, 2 - Anyone abstracted the money of others shall return it to him in the same situation and place at abstraction, 3 - If it was consumed or damaged, lost or damaged by the infringement or without infringement, then it shall be returned as like as the value or the day of rape and in the place of rape, 4 - It also has to ensure its benefits and additions thereof.

⁷Decision of the Jordanian Court of Cassation (Rights) No. 1422/2014 (Ordinary Panel) dated 12/8/2014.

i.e. according to the provisions of Article (707) of the Civil Code as well as the rule of "Consent makes the law", not the provisions of the Landlords and Tenants law. Further, given that this contract provides for (Annual and shall be renewed annually), then it is subject to automatic renewal and is therefore subject to the provisions of the Landlords and Tenants law in terms of the conditions of redemption. As for the appellant's (Defendant) claim that Article (707) of the Civil Code requires that the contract be renewed automatically, we find that Article (707) of the Civil Code stipulates that "the lease shall terminate at the end of the limited period specified in the contract, unless provided it shall automatically renewed". We find that Article (5 / B / 2) of the Landlords & Tenants Law, which applies to the contracts concluded after August 31, 2000. Since this Article provides in its second paragraph "if the contract provides for its renewal automatically, the contract shall renew for a new one-time contracting period unless the lessee informs the lessor of his unwillingness to renew the contract before the expiry of the basic term". The Landlords & Tenants Law No. (22/2011) has been in force since 1/1/2012, which requires renewal of this contract subject to a similar contractual period (one contractual year), and since this contractual year has started with regard to the leasehold of the lawsuit in (1/1/2012) and ending on 1/1/2013, Article (5 / B / 2) of the same law has been implemented and thus it has become the right of the plaintiffs to request the recovery of the leasehold, the subject matter, after the end of that contractual year on 1/1/2013. Given that the Plaintiffs sent a legal warning against the Defendant on 21/10/2012, the conditions for the recovery of the rented property in accordance with the provisions of Article (19) of the Landlords & Tenants Law are available. Since this is what the Court of First Instance came to, in its capacity as an Appellate court, its decision was taken in accordance with the principles and the rightful law, and we support what has been concluded thereof, so that the reasons for the appeal are not true in terms of the declined decision and shall not attain it. Thus, it should be all rebutted.⁸

Exceptions on the legal extension of the Lease and Rental:

The Jordanian legislator cited a number of contradictory exceptions, one of which by giving continuity to the occupancy right of the leasehold to the heirs and the divorced wife, in certain cases, i.e. the legal extension of the lease. However, it provides in another exception invalidity of the legal extension to the lease contracts for foreigners (Non-Jordanians) and Foreign bodies according to specific conditions to be identified hereafter.

First Exception: Legal extension to Heirs and Divorced

Wives: Article (7), paragraph (a), of this law also stipulates that the family members of the tenant who lives with him in the leasehold before his or her death in the leased properties can continue to occupy the leasehold for the purpose of housing prior to August 31, 2000. The same provision shall apply to continue the occupancy of the leased property by the heirs of the or one of them and his wife in the occupancy for the non-housing purposes. However, the rights of occupancy for the wife who died her husband shall not continue after the marriage of another husband.

⁸Decision of the Jordanian Court of Cassation (Rights) No. 1802/2013 (a Quintet Panel) dated 7/8/2014.

Legal extension to Heirs: Article 7/(A) of the effective Landlords & Tenants Law, provides that the members of the tenant's family who lived with him or her in the leasehold before his or her death in the leased properties for the purpose of housing before 31 August 2000 shall be entitled to occupy it in accordance with the provisions of this law. In addition, the right of the legal heirs of the tenant, or any one of them and his wife, shall continue to occupy the leased properties for non-housing purposes, provided that the rights of the widow wife are terminated if she married to another man. This means that if the tenant dies, the lease will not expire, but this right will be transferred to the heirs. In terms of the rent and heirs, there are two cases. The first, is the previous obligations on the deceased tenant. And of course, such obligation shall be paid like any other debt on the deceased. Where such debts or obligations are to be paid before the bequest is distributed to the heirs. Then, all the deceased' debts shall be settled including unpaid or delayed rentals thereof, which shall be paid from the Hereditaments estate. However, after the settlement and distribution of the bequest, the right of tenancy shall be transferred to the heirs and according to the inheritance rules. Consequently, every heir shall pay his or her share of the rent in proportion to his or her share of the estate.

Legal extension to include the arbitrary divorced wife: In this law, the legislator has done well by introducing Article (7)/ (b) (amended) which gave the divorced wife the right to live with her children who are in her custody and occupy a residential property if her divorce was issued by a court of competent jurisdiction for arbitrary divorce or separation after her husband left the leasehold, and this is what Article (7)/(b) of the Landlords and Tenants Law in force provides.

Second Exception: Leases with Foreign nationals or foreign entities: Article (8) of the the effective Landlords and Tenants Law stated that: "the provisions of Article (5) of this Law shall not apply in respect of the tenant's right to continue to occupy the property after the expiry of his lease to the citizens of any country other than the Hashemite Kingdom of Jordan or the bodies of that country, unless the legislations in force in that country grants Jordanians and Jordanian bodies such a right, and the tenant shall prove that".

Automatic Renewal of the Contract and Rentals and other mixed issues related to the explicit or implicit lease renewal or extension

As we have shown previously, the automatic renewal of the contract and the rental is provided by some legislations, including the Jordanian legislator. In other words, what meant by this is that the lease contract is automatically renewed if the tenant wishes to pay the same rent under the same conditions as the previous contract and the same previous lease rental without changing the contract despite the agreement between both parties on specific term for the contract meaning that not to comply with the will of the contractors in terms of the duration of the contract and is nevertheless renewed by the force of the law. The determination of this term shall have no legal effect and the contract shall be renewed automatically, whether the parties agree or not. Typically, the leases contract ends at the end of its term as agreed by the parties when they set a specific period for the tenancy contract and the lessee shall deliver the leasehold after the lapse of such period. This is the typical case in the laws, but in most cases the tenant

remains in its leasehold after the end of this period. However, the tenant may stay a holder of the leasehold for many reasons including the explicit renewal of the contract, i.e., the parties shall agree on a new period. This type of renewal is not automatic because it was agreed by both parties, and this renewal may be express or implied. Further, the lease may be extended by renewing the contract automatically.

Explicit Renewal of the Contract: The explicit renewal of the lease differs from the automatic renewal and implicit renewal that the terms of the contract and the rent are renegotiated and often there are new terms and conditions that were not present in the previous tenancy contract and this can only be achieved through negotiation between the parties. Therefore, the explicit renewal of the lease means that the parties to the contract agree to renew the contract under the terms agreed upon in accordance with the principle of "Consents makes the law", and by matching offer with consent of the parties to the contract. So, there may be new terms or conditions modified from the previous contract. However, the explicit contract shall be valid since it was signed and upon the satisfaction of offer and consent of the parties. Thus, the current contract shall be deemed an addendum to the previous contract. Consequently, the automatic renewal of lease contract can not be considered as a contract made at the will of the two parties, so this is outside the scope of our search for the automatic renewal of contracts.

Implicit Renewal of the Contract: The Implicit renewal of a contract is a rental for a new period, but by maintaining the same terms and rent of the old lease contract. In this case, the contract is renewed because it has expired, i.e., a new contract has been established. The renewal of the previous lease contract indicates the circumstances surrounding the contract, such as the continuous occupation of the lessee to its leasehold. That is a renewal of the contract upon the knowledge and approval of the lessor, where this was considered a renewal to the contract.

An implicit renewal of the lease includes the following:

- The expiry of the old lease contract because if the contract is valid, there is no implicit renewal. Even if the lease is extended, for the absence of an eviction notice even though it is obligatory, there is no new contract but an extension of an old lease contract.
- Renewal shall be between the lessor and the lessee, the parties of the old lease, and the parties may change if they were their heirs or upon the presence of a new lessee transferred to by the original lessee.
- The tenant shall remain a beneficiary of the leased estate at the knowledge of the lessor and without objection.
- The eligibility of the parties at the time of renewal, while in the case of extension the eligibility shall not be required, at the time of its occurrence.
- There is no impediment to renewal, and this prohibition shall apply in two cases, the first is the agreement between the parties to the contract not to renew the contract implicitly, and the second case is warning of one party to the other evacuation.⁹

⁹Ali R. (2016). Specific Contracts, Sale and Rent, Dar al-Kutub and Arabic Studies, Alexand, p:334-336.

In the opinion of some, the implicit affirmation of the tenant's stay must be conclusive, so it is not sufficient for the tenant to remain in the leased estate, but also his intention should be to renew the contract. However, if the tenant remains in the leasehold for his or her illness or for any other reason rather than the desire for renewal, These cases shall not be considered an implicit renewal. Meanwhile, the implicit renewal has many effects, namely:¹⁰

- This renewal shall be new lease not only an extension to the old lease.
- The new lease shall have the same conditions of the old lease.
- In kind insurances provided be the tenant shall transfer from the old lease.
- Warning for eviction in the specific time shall be deemed a proof of non-renewal of the lease.

In addition, for the purposes of adopting the implicit renewal the lease the lessor should be learned of the stay of the lessee in the leasehold for renewal, and he or she should not object thereof. in other words, the lessor is satisfied with renewal. However, silence of tenant shall not be considered an implicit approval, where a landlord may know that a tenant will stay for short period and the landlord a low him or her as tolerance, due to special circumstances and for emergency or provisional time.¹¹ Upon a decision of the the Jordanian Cassation Court: (In response to the reasons for the appeal: The first reason that the appellant wrong the Court of Appeal in terms of the provision of the first paragraph of Article (707) of the Civil Code and the omission of the second paragraph of the said Article. If we refer to lease contract, the cause of litigation, the appellant occupies a commercial warehouse for glass and mirrors within the property of the appellee based on a written lease contract started on 15/7/2007 for a period of three years, i.e., ends on the end of 15/7/2010. As the period of the contract has actually elapsed, and the landlord (appellee) did not ask the tenant (appellant) to vacate the leasehold, whether before the expiry of the contract or by its termination. Then, as the tenant continued to occupy the leasehold after the expiry of the contract period specified on a particular date indicates his positive desire – offer by him or her - to continue the rental under the same conditions thereof, and that the lessee's silence and as the landlord did not demand evacuation by the tenant at the end of its term or warning her –voluntary – to do so on the termination date and within a period exceeding weeks is a proof of his desire – approval - to accept the rent on the same terms, unless otherwise provided for reasons beyond his or her control. which prevented him from demanding the eviction. This what was decided by Article (707/2) of the Civil Code stating that: “ If the contract period elapsed and the tenant remained using leasehold upon the explicit or implicit consent of the lessor, then the contract shall be considered renewed on the initial conditions thereof”. And this is what was concluded by the general authority of this court through its contentious judgement No. 2310/2012 Date of 07/05/2013. Since the proved in the documents of the lawsuit that the fixed-term contract, the cause of litigation, ends on 15/7/2010 and that the tenant continued to use the rent after this date, which means that she is wishing to continue the rent under the same

conditions, and as the lessor filed his claim on 26/8/2010 and the tenant was notified by this on 16/9/2010 after about three weeks from the end of the contract. And since the owner or the landlord (appellee) failed to provide a proof that he or she asked the tenant (appellant) to vacate the leasehold and deliver it for him or her on the termination date of the contract or otherwise that there was a reason beyond his or her will to do so contrary to the provisions of Article (707) Of the Civil Code. Thus, what was concluded by the court that the appellant control on the leasehold is legitimate. Since the Court of Appeal has taken an opposite approach, it has made a mistake in applying the provisions of the law, which makes this a reason for the revocation of its decision”.¹² The purpose of the automatic renewal provided in the first paragraph of Article (707) is the implied renewal, since the automatic renewal can only be achieved by the renter's retention of the leasehold with the intention of renewal and the lessor's intention to do so. In a decision of the Jordanian Court of Cassation, Article (707/2) of the Civil Code stipulates that “if the lease term is terminated and the tenant remains a beneficiary of the leasehold upon the implicit or explicit consent of the lessor, the contract shall be deemed to be renewed on its first terms”. Off course, if the tenant remains a beneficiary of the leasehold after the termination of the contract period specified on a specific date, indicates that he or she wishes positively (an offer by him or her) to continue the rental under the same conditions thereof, provided that the landlord did not demand evacuation by the tenant at the end of its term or warning him or her –voluntary – to do so, on the termination date and within a period exceeding weeks or months, then it shall be deemed a proof of his desire – approval - to accept the rental on the same terms, unless otherwise provided for reasons beyond his or her control to do so on the termination date of the contract or even before the termination date of the lease contract with reasonable period of time that allow the tenant to evacuate the leasehold and deliver it empty of occupants on the date of termination.

Given that the proved in the lawsuit documents, without any dispute between the parties, that the specified- term contract, the cause of litigation, ends on 31/3/2008 and that the tenant remains beneficiary of the leasehold after that, and that he is willing to continue the rent under the same conditions and that the lessor filed his claim on 10/7/2008, 2008, and the tenant informs it on 21/7/2008 after the expiry of the contract period by three months and twenty days. On the other hand, the lessor has not provided a proof stating that he asked the tenant for evacuation of the lease and handing it over to him on the date of expiry of the contract or that he is excused in this silence or that there are an act of god beyond his or her request and notification to the tenant to do so contrary to the provisions of Article (707) of the Civil Code.¹³ As for the duration of the new contract, the Jordanian legislator remained silent and therefore the majority believes that its duration is similar to the previous period.¹⁴ While some comparative laws such as the Iraqi law explicitly stated that the lease is renewed on its first conditions, but for an unlimited period.¹⁵ However, there are

¹²Decision of the Jordanian Court of Cassation (Rights) No. 1229/2014 (Ordinary Panel) dated 28/8/2014.

¹³Decision of the Jordanian Court of Cassation (Rights) No. 2310/2012 (General Panel) dated 7/5/2013.

¹⁴Al-Obaidi A. (2015). the Specific Contracts, Sale and Lease, Dar Al-Thaqafa for Publishing and Distribution, Amman., p:356-356.

¹⁵Article 780 of the Iraqi Civil Code states: “If the lease contract is terminated and the lessee remains a beneficiary of the lease without the objection of the

¹⁰Saleem E. (2017). Al-Wajeez in the Lease Agreement, University Publications House, Alexandria, p:523-525.

¹¹Kamal R. (2004). The Modern Encyclopedia in Lease Laws, National Center for Legal Publications. p218.

other particular assumptions where the lease renewal shall not apply, due to some conditions that contradict to the renewal intension such as if the lease requires specific permission for renewal from a third party other than the lessor and the lessee. In such case, the parties can provide in the specific- period lease contract that it shall not be implicitly renewed even if the tenant stays in the leasehold unless new conditions have arisen to prove that the parties waive this condition. Also, one party may send an evacuation notice to the other party.¹⁶

Lease Contract Extension: The parties may agree that the contract shall not terminate unless one of the parties has notified the other party that he or she does not wish to renew the contract before a certain period agreed upon. Consequently, if the parties remain silent and the other party has not been notified of the period specified, the lease contract shall be automatically renewed under the same terms of the previous contract in terms of conditions and rent. This is what is called the consent renewal. In this case, the contract did not end but extended for a new period. In other cases, the rent and the date of payments thereof may be agreed upon, but the contract missed the duration of the contract. Therefore, if one party wishes not to renew the contract, he or she has to notify the other party. Should the two parties keep silent the contract will be extended for a new period according to the time unit agreed upon as provided in Article (670) of the Jordanian Civil Code: "If the contract period is not determined, provided that the contract was concluded at a specific rent for a specific time unit, then either of the parties may terminate it at the end. Whenever each new unit enters and the two parties are silent, the contract shall renew in a binding manner. However, should the parties determine a period for rent payment, the lease shall be binding for that period and ends with its end".

In such cases, the lease contract extends if one of the parties to the contract fails to notify the other party that he or she does not wish to renew the contract within the agreed periods. The implied renewal of the lease differs from the extension of the lease. For example, to extend the lease, the parties to the contract may agree that the contract will not expire unless a notice is issued by one of the parties to the other party. If such notice is not issued, the lease shall be extended for another period without considering it as a new lease. Thus, in the case of extension there is no new agreement, between the lessor and the lessee, to conclude a new lease contract but the same contract shall extend to another period or periods.¹⁷ One of the important implications of extending the contract compared with the implicit renewal of the contract, is that the latter requires each contractor be capable to conclude contracts at the time of the implied renewal. However, in the case of lease extension, and once the contract is not a new one, it is sufficient for the parties to be eligible, at the extension time of the original lease even if this eligibility expires at the start of the extension.¹⁸ As well, to differentiate between the extension and the renewal, it should be noted that the extension leads to the continuation of the same contract with its same guarantees and assurances and for the same duration or for indefinite

period that may be determined by law. However, in terms of the renewal, it is a new contract and therefore the guarantees and assurances shall not transfer to the new contract, and the duration of the new contract is not specified in all cases. Therefore, it shall be legally determined and shall have a fixed period of payment. But in case of the implicit renewal, in terms of the amount of the rent and other obligations, they are as like as the terms of the old lease.¹⁹

Conclusion

Lease gives legal status to both the lessor and the lessee. And whereas the Jordanian legislator intended to create and establish as much balance as possible between these two bodies through various amendments made in terms of automatic renewal of the contract in light of the Jordanian Civil law and Landlord Tenant Law and its successive amendments thereof. The legislator also stated clearly exceptions on the legal extension of the Lease and Rental as the case with heirs and divorced wives and foreign nationals or foreign entities. Another important issue is the defrenciation between the Automatic Renewal of the Contract and Rentals and other mixed issues related to the explicit or implicit lease renewal or extension.

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lessor, the rent shall be deemed to have been renewed on its first terms but for an indefinite period".

¹⁶Al-Sanhoury A. Lease Agreement, Arab Heritage House, Beirut, p:546-547.

¹⁷Saleem E. (2017). Al-Wajeez in the Lease Agreement, University Publications House, Alexandria, p:520-521.

¹⁸Al-Fadhli J. (2016). Al-Wajeez in Civil Contracts - Rentals, Dar Al-Thaqafa Publications for Publishing and Distribution, Amman, p:283.

¹⁹Ali R., *op.cit.*, p:331.