

1 **13-707. Entire taking of leasehold; damages to tenant.**

2 In this case, the taking of the property resulted in the termination of the lease.

3 The tenant is entitled to recover money damages for the total of the following:

4 ~~[(1)]~~1. The value, at the time of taking, of all improvements and fixtures owned by  
5 the tenant which have been taken; and

6 ~~[(2)]~~2. The fair rental value of the remaining term of the lease, less the total rent  
7 due the ~~[landlord]~~ lessor for the same term, discounted to present value, as of the date of taking.

8 USE NOTES

9 When this instruction is given, it is not necessary to use UJI 13-703 NMRA.

10 UJI 13-712 NMRA should be used with this instruction.

11 [As amended by Supreme Court Order No. S-1-RCR-2025-00126, effective for all cases pending  
12 or filed on or after December 31, 2025.]

13 **Committee commentary.** — Where there is an entire taking, the lease is deemed terminated by  
14 the condemnation, and, except for the value of the leasehold improvements owned by the tenant,  
15 the tenant is entitled to no compensation unless the fair rental value of the property exceeds the  
16 contract rental. ~~[See generally]~~ See generally 2 Nichols, Eminent Domain § 5.23(1), pp. 38, 39; 4  
17 Nichols, Eminent Domain §§ 12.42(1)-(3), pp. 163-177. The termination occurs by means of  
18 paramount title and gives the tenant no claim against the ~~[landlord]~~ lessor for the fact of termination  
19 itself. 2 Nichols, Eminent Domain § 5.23(3).

20 *See* committee commentary to UJI 13-709 NMRA.

21 Paragraph (2) of this instruction should be given only if fair rental value exceeds the contract rental  
22 stipulated in the lease.

1 If the property is taken under the Relocation Assistance Act (~~[Section 42-3-1 NMSA 1978 et seq.]~~  
2 NMSA 1978, §§ 42-3-1 to -15 (1972, as amended through 2015)), then certain additional  
3 relocation expenses can be recovered, as provided for in such act.  
4 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]

5