



When Does Your Guest Become a Roommate?

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Mystery

Everyone has a right to have guests visit them in their apartment. It's part of the covenant of quiet enjoyment that is assumed in all New York leasing agreements. Typically, when you have a guest it's with the understanding that it's only temporary. Maybe it's a significant other staying the night, or a friend or family member visiting for a holiday weekend.

But what happens when they don't leave?

Can a guest turn into a roommate without your knowledge? How do you know when someone has taken up residence in your apartment? And do they have a legal right to stay?

Renting a Room

If you've accepted any kind of rent from a guest, they are protected. New York law states that you can have non-paying guests stay for as long as you'd like, but once you've accepted money from them in exchange for lodging, they're a roommate.

All New Yorkers have the right to a roommate, provided they're not breaking any occupancy laws. State law also gives you the right to rent out a room in your apartment to someone, provided you will still be living there throughout their stay.

Once a roommate establishes residency,, it becomes more difficult to get rid of them, even if they're not on your lease. This can include paying rent, having utility bills in their name, receiving mail at your home, etc. If

residency has been established, you will have to go through the court system to have them removed. It's advised to consult a real estate attorney before pursuing any legal eviction proceedings.

Illegal Subletting

You absolutely have the right in New York to rent out a room in your apartment. But, as stated before, you have to be living there. If you are receiving rent from someone who is living in your rental unit without you, that's called subletting,, and there is a legal process that must be adhered to for that to occur.

If someone is subletting your apartment they are not a roommate, they are a subtenant.

Subletting requires the approval of your landlord. While they cannot deny you on a whim, they can say no if there are legal issues present. ,Problems that might give a landlord cause to reject a proposed sublet include the original tenant not showing an intent to return, not demonstrating a valid reason for being away, or if your subtenant fails to pass a criminal background and credit score check.

For more information on subletting in New York, contact an experience real estate law firm like Adam Leitman Bailey, P.C.

Law of Occupancy

New York has a strict occupancy law which dictates how many people may inhabit a domicile.

The administrative code of New York City, section 27-2075 states that an apartment is allowed one occupant per 80 square feet of space. To put that in perspective a room that is 8'x10' is 80 square feet. Also, for every two adults who occupy an apartment, one child under the age of four may also reside, regardless of floor space.

Conclusion

It's important to make sure that your guests aren't laying roots down if you don't want a roommate. Once you make certain concessions regarding living arrangements you become bound by state law. If you are trapped in a roommate situation that you did not consent to, it's best to contact a real estate lawyer immediately to go over your options.

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