

Succession Rights

A Fact Sheet for NYC Tenants

In apartments that are rent-stabilized or rent-controlled, remaining family members are entitled to take over the apartment, under certain conditions, when the tenant of record moves out or dies. If the remaining family member or members lived in the apartment for two years before the named tenant vacated the apartment or died--or for one year before that if the remaining family member is disabled or elderly--the remaining tenant is entitled to take over the existing lease (and get his or her name on the renewal lease) or to become the tenant of record in a rent-controlled apartment.

The definition of family member includes non-traditional families including gay and lesbian couples and heterosexual couples who are not married. Non-traditional family members must show evidence of social, financial and emotional interdependence.

Tenants' rights of succession were weakened by the changes in the rent laws in June 1997. The law took nieces, nephews, aunts, uncles and cousins out of the list of traditional family members and allows the landlord to get a vacancy allowance on the second time a succession is claimed (on the first succession, the landlord cannot get a rent increase--the remaining tenant simply takes the tenant of record's place).

Often landlords refuse to accept succession claims; the landlord must start a legal action against the tenant in housing court, called a holdover, before the tenant can be evicted. Tenants are advised to seek legal counsel if the landlord takes them to court.

Definitions

Traditional family member husband, wife, child, stepchild, parent, stepparent, sister, brother, step-sister, step-brother, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law.

Nontraditional family member must be able to prove emotional and financial commitment and interdependence between herself and the tenant of record. The courts consider the following factors: length of relationship; sharing of expenses; intermingling of finances; engaging in family-type activities; formalization of legal obligations and responsibilities between the two parties (naming each other in wills, health proxies, living wills, etc.); holding themselves out as family members through words or acts; regular performance of family functions (appearing at each others' family weddings, funerals, baptisms, bar mitzvahs, etc.); any other pattern of behavior which shows tenants intended to create a long term, emotionally committed relationship.

Two year rule remaining tenant must have lived continuously with the tenant of record since the apartment was first leased or must have been there since the commencement of the relationship with the tenant of record or if neither of the above then tenant must have lived with the tenant of record for at least two years as his or her primary residence (if a senior citizen, age 62 or older, or disabled, then tenant needs to have lived with the prime tenant for one year).

For more detailed information about your rights as a tenant, or for assistance in organizing a tenants' association:

METROPOLITAN COUNCIL ON HOUSING

339 Lafayette Street, New York, NY 10012 • www.metcouncil.net

Tenant Hotline: 212-979-0611 (Mondays, Wednesdays and Fridays 1:30-5:00 p.m.)

Free Tenant Clinic: Tuesdays 6:30 p.m., Cooper Square 61 East 4th Street (between Bowery & 2nd Ave.)