AUTHORIZED OCCUPANTS

When Someone Lives There but Isn't the Tenant

Living in a rental unit does not automatically make someone a tenant.
The lease matters — but so do authorization, the circumstances and local law.



1 LIVING THERE DOESN'T MAKE SOMEONE THE TENANT.

Start with the rental agreement. Identify the named tenants, listed occupants, and any restrictions on additional residents or subletting.

2 AN AUTHORIZED OCCUPANT IS NOT AUTOMATICALLY A CO-TENANT.

A family member, roommate, caregiver or other person may be permitted to live there without becoming a party to the rental agreement.

3 YOU CAN'T SOLVE STATUS WITH A LABEL ALONE.

"Guest," "occupant" or "roommate" doesn't necessarily control the outcome. The parties' conduct and surrounding circumstances — along with applicable law — can matter.

4 SOME ADDITIONAL OCCUPANTS MUST BE ALLOWED.

Fair-housing laws may require disability-related accommodations, including live-in caregivers. Local ordinances may also protect certain family members and replacement roommates, even when the lease restricts additionad occupants.

5 THE NAMED TENANT'S DEPARTURE CHANGES THE QUESTION.

If the named tenant leaves or dies, the remaining occupant doesn't automatically become a tenant — or necessarily lose the right to stay. Examine local law, prior authorization, and whether the parties' conduct may have created or recognized independent tenancy rights.

SOMEONE NEW IS LIVING THERE. NOW WHAT?

1. Identify who they are.
2. Check the lease.
3. Determine when and why they moved in.
4. Find out what was previously authorized.
5. Check for a disability accommodation.
6. Check applicable law before serving a notice.

YOUR LEASE DOESN'T ALWAYS GET THE LAST WORD.

San Francisco, Oakland and Berkeley impose additional-occupant and roommate rules that can override lease restrictions.

THE TAKEAWAY

Occupancy and tenancy are not the same thing.

Permission to live there does not necessarily make someone a co-tenant — and being left off the lease does not necessarily leave them without rights.

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