

Can a Tenant Move Out in the Middle of a Lease if He Finds a Replacement?

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Question: A tenant is in the middle of a two-year lease and is moving out of town. He wants to find a different tenant to take over his lease but the landlord says that since he signed the lease, he is obligated to pay for the entire two years and he won't accept a replacement. Who is right?

Answer: The Shulchan Aruch, based on a Gemara, rules that although a tenant is responsible for the full term of the lease, if he finds a suitable replacement and the landlord won't suffer any loss, he is no longer liable to pay the rent. This is true even if the contract says that the tenant is not permitted to sublease the apartment. That clause only means that he can't force the landlord to accept another tenant. In this case, he isn't forcing the landlord to accept the replacement he finds. Rather, he is giving him the option of taking the replacement so that he doesn't sustain a loss. If he doesn't want that replacement, he doesn't have to accept him, but he can no longer expect the original tenant to pay him rent.

Question: If the apartment is in a place where there are many potential tenants, does the tenant who is leaving have to find his own replacement or can he tell the landlord to find one?

Answer: That is a *machlokes* Acharonim. The Nesivos Hamishpat says that if it is easy to find a new tenant, the old tenant can tell the landlord to find one on his own. The Chazon Ish disagrees and says that it is the tenant's responsibility to put in the effort to find a suitable replacement for himself. If they want to be safe, both the landlord and tenant will look for a new tenant. If either of them doesn't put in the effort, a *bais din* may use that against him and say that it is his fault if a new tenant isn't found and they would have to bear the loss.