

If a Tenant Subleases an Apartment, Can He Keep the Profit?

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Question: If a tenant subleases an apartment for more rent than he is paying, can he keep the profit? For example, if he is renting the apartment for \$1,500 a month and he subleases it for \$2,000 for one month, can he keep the extra \$500?

Answer: We previously said that it is sometimes permitted to sublease and sometimes forbidden. In a case where subleasing is permitted by halacha, the tenant is allowed to make a profit. Since he bought the rights to the property for a certain amount of time, he can make a profit from it during the time that he owns the rights.

However, in a case where the tenant had no right to sublease the apartment, any extra money he made from it goes straight to the landlord. There was an interesting case involving someone who lives in Chutz La'aretz and owns an apartment in Eretz Yisroel. When he took a tenant for the apartment, he stipulated in the contract that the tenant would have to move out whenever he came to Eretz Yisroel for Yom Tov and wanted to use the apartment.

One year, the landlord called the tenant and told him that he was coming to Eretz Yisroel for Sukkos and would need him to move out of the apartment. The tenant told him that his wife was due to have a baby and it would be very difficult for him to vacate the apartment at this time. He asked if he could please stay. The landlord felt bad for him and agreed not to force him to move out for Yom Tov.

The landlord ended up renting another place in Yerushalayim to stay for Yom Tov. On Sukkos, he bumped into a friend from his hometown and asked him where he was staying. The friend told him that he had rented an apartment in the area, and it soon became clear that he was renting the apartment that this man owned!

When the landlord confronted the tenant, he said that although it was hard for him to move out for Yom tov, he was offered such a large amount of money for the apartment that it was worthwhile for him to rent it out. In this case, what the tenant did was clearly forbidden, and any profit he earned from renting out the apartment would go to the landlord.