

Is a Tenant Entitled to a Discount if His Apartment is Flooded and He Has to Move Out for a Few Days?

Rav Baruch Meir Levin

Question: There was a flood in an apartment and the tenant was forced to move out for a few days while repairs were being done, is he entitled to deduct those days from his rent?

Or another case – the air conditioning in an apartment broke in the middle of the summer. The tenant did not move out but was forced to suffer in extreme heat for a few days. Is he entitled to ask for a deduction from his rent?

Answer: In the first case, it is clear that if the apartment was not livable for those few days, it cannot be considered part of the rental deal. The rental is *batul* for those days, so no rent is owed for that time period, and that amount can be deducted from the monthly rent.

The second case is more complicated because the tenant continued to live in the apartment while the air conditioning was broken. In a normal case of *mekach ta'os*, the purchaser has two choices – to keep the faulty product or to return it. For example, if someone buys a car for \$10,000 and later discovers that the air conditioner is broken, he can either return the car for a full refund or decide to keep it. He cannot keep the car and demand \$1,000 back as a partial refund. This would seem to indicate that the tenant has no right to continue living in the apartment and demand a partial rebate; however, some Acharonim say that, for a number of reasons, a lease is different than a sale and the tenant is entitled to a discount.

Practically speaking, it would be difficult for the tenant to get a discount in a case where he continued living in the house. The exception to that rule is when the landlord was negligent. If the reason it took so long to fix the problem was because of the landlord's neglect, the general consensus of the Poskim is that the tenant is entitled to a partial discount.