

Is a Tenant Permitted to Sublease an Apartment?

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Question: Is a tenant allowed to sublease his apartment?

Answer: The Gemara says that a renter may not rent the item that he is leasing to someone else. However, the Rishonim say that the Gemara is only speaking about moveable objects. Since the owner is worried about what will happen to them and where they will be taken if they are rented to a second person, the renter is not permitted to sublease them. Land, however, cannot be moved or taken anywhere, so this concern does not apply and the halacha is that it may be subleased.

Although that is technically the halacha, standard residential contracts specifically restrict the tenant from subleasing without the permission of the landlord. Many contemporary Poskim feel that this is now the common *minhag* and, accordingly, even if the lease does not explicitly forbid subleasing, it is understood that the tenant is not permitted to do so.

Many Poskim qualify that the minhag is only to forbid long-term subleasing; whereas, short-term subleases would be permitted. For example, if someone is renting an apartment in Eretz Yisroel and is planning on coming to his parents in America for Yom Tov or for the summer, these Poskim say that the minhag is to allow him to rent out the apartment for the weeks that he is away. Moreover, it is generally assumed that the landlord permits this form of short-term subleasing even if the contract specifically says that subleasing is forbidden.