

Rav Chaim Weg

Question: What is the halacha if a landlord rents out his basement to another family or a playgroup, and a member of that family or playgroup contracts the coronavirus? Does the landlord have any right to regulate what the tenants are permitted or forbidden to do? May he force them to move out so his own family does not catch the illness?

Answer: The Rema was actually asked a very similar question about five hundred years ago, when it was common to rent out rooms in one's house. The Rema was asked about a tenant of such a room whose wife contracted an infectious disease, and the landlord demanded that the tenant move out. The Rema paskens that the landlord may not force the tenant to leave due to the halachic principle of sechirus l'yoma memkar hu, one who rents something is considered to be the owner of that object or space during that time.

Therefore, the same way that the halacha dictates that a person is permitted to use his house or apartment in an ordinary manner despite the objections of his neighbors (adam oseh l'toch shelo), the tenant who is sick with the virus has the right to use the basement normally by remaining there. If the landlord is so uncomfortable with the situation that he cannot live there, then he would be the one that has to move out.

The Rema cites a fascinating case in the Gemara as proof to his ruling. The Gemara states that if a person rents out an apartment for a year from a landlord and the landlord's house collapses, the landlord is not permitted to eject the tenant even if the landlord is living on the street, since it halachically belongs to the tenant. Using the same logic, the landlord would not be allowed to compel the tenant to wear a mask or gloves in the apartment, since common practice in current times is not to wear a mask or gloves in one's own home.

One important caveat to this issue is that if it is discovered that the tenant was sick before the kinyan (acquisition) of the property was effected, then the landlord can indeed cancel the agreement. The reason is that he can argue that it was a mekach ta'us (transaction in error), since he never would have rented the premises to someone who tested positive for Covid-19.