

What is the Halachic Function of a Written Lease?

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Question: Typically, when someone rents a residential house or apartment, he has to sign a lease. What is the function of this lease? Is it necessary according to halacha to have one?

Answer: A rental needs a *kinyan* to make it binding. There are three ways to make a *kinyan* on land: *Kesef* (money), *shtar* (a contract), or *chazakah* (moving in). Even if there is no written lease, the tenant will be making a *kinyan* once he moves into the property. Furthermore, there is a halachic rule of “*kol t’nai sechirus ain tzorich kinyan*”, which means that the spoken terms of a rental agreement are binding when one moves in, even without a written contract.

Therefore, a written lease would only be necessary if it is meant to stop a tenant from backing out before he moves in. Once a tenant moves in, there is no real need for it. However, it is highly advisable to always write a lease because there may be misunderstandings or arguments about the terms later on. If everything is clearly spelled out in writing, that would solve most disagreements.