



Sep

16

 TIP OF THE DAY

## Prevent Yourself From Being Wrongly Evicted

---

5:00AM | September 16, 2009

What if you're having trouble paying your rent. Or say your lease has expired. Maybe you've been having an ongoing dispute with your landlord so you decided to withhold rent; so you're putting your rent in escrow until it gets resolved.

With any of these scenarios, is your landlord ever able to evict you? Can he just kick you out? And can your landlord allowed to evict you with no notice? We asked a real estate attorney who said not so fast.

Real estate attorney Adam Leitman Bailey, "No landlord can ever throw you out in the street or remove your belongings without getting a warrant and a judgement in a court of law. In New York, that court of law is Housing Court.

"It is actually a crime," said Leitman Bailey, "for a landlord to throw your possessions out in the street and to evict you without using the court system."

Leitman Bailey points out that going through the courts can take months and months and months.

So the first thing you should do is know your rights. Call your lawyer, or call Legal Aid and they'll appoint one for free.

Reach out to the Housing Department. If your rent is subsidized, check whether the subsidy program, like Section 8, will help you.

There are clear guidelines in the law.

If a tenant hasn't paid the rent the landlord must inform the tenant in writing that full rent is due by a specific deadline or the lease will be terminated.

Regarding other violations. The landlord must inform the tenant in writing of the supposed violation, giving the tenant enough time to correct the problem.

If the lease has expired and the landlord doesn't extend it, and the tenant refuses to leave, the landlord can evict after giving the tenant written notice.

If there is no lease ie. The tenant rents month to month, a landlord only needs to give written notice (usually 30 days in advance) to terminate the lease. If the tenant doesn't get out, the landlord can evict you.

If the court does order you out, the judge might postpone it a bit if given a good reason.

Hardships that may qualify include having young children or a sick or elderly family member. That could enter into the decision, in setting the eviction date.

Learn more by going online: Department of Housing Preservation and Development #212-863-5000 or [www.NYC.gov/hpd](http://www.NYC.gov/hpd)  
Legal Aid #212 577-3346 or [www.legal-aid.org](http://www.legal-aid.org) or [RentLaw.com](http://RentLaw.com)