

Imposing Friends and Family are Protected by the Law

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Legal Hotline for Michigan Seniors

If you have agreed to let friends or family stay with you it may take more than a polite request to get them to leave. It is not uncommon today for adult children or other family members to move back in with mom and/or dad when financially pressed. Friends may also come to stay in times of need, especially in these tough times. Jobs are hard to come by and keep. Foreclosures are at an all-time high. Many people have come to rely on the kindness of others to help them get by. If you are contemplating opening your home to others – or perhaps you already have – be sure all parties have a clear understanding of the arrangement. Hard feelings and legal repercussions are more likely to result when the terms of a stay are left informal and open-ended.

Many generous, well-intentioned people invite family and friends to stay, temporarily, to help them avoid homelessness. They do not realize, however, that in doing so they are creating a “landlord/tenant” relationship under Michigan law. Even if there is no money exchanging hands – as with a rental agreement – those involved in the arrangement must abide by the laws governing landlords and tenants in Michigan. Failing to do so could result in significant liability. Because these short term, informal living situations create a legally recognized and protected relationship, all parties should openly discuss and document the terms and conditions of “coming to stay” so that there is no misunderstanding as to expectations and timelines. Summarizing the discussion in writing and providing all parties with a copy is also a good way to avoid problems down the road. Parties may even wish to sign this writing to indicate their understanding and agreement with its contents. It ensures discussion of touchy, but important issues that are frequently avoided in these situations. It has the added benefit of making the parties feel “bound” to it.

When asking someone to leave your home, be precise and clear. Hints and subtle cues can be missed or ignored. Consider a clear statement like: “I need you to find another place to live by Friday”. Set a deadline and stick to it.

At the Legal Hotline for Michigan Seniors we receive calls from clients who are having trouble with relatives and friends who simply refuse to move out when asked. Many times these so-called “guests” have taken financial advantage of or are emotionally abusive to their “hosts”. Our clients are often surprised to learn they must do more than just insist on the move. Contrary to popular belief, one cannot attempt to get rid of an unwanted guest by removing their things from the premises and changing the locks. This is what’s known as a “self-help eviction” and it is illegal in Michigan. Those that employ this and similar tactics (e.g. terminating utilities) as a means of ousting the unwanted guest, open themselves up to damages of the greater of \$200 or three times actual damages.

There is a well-defined legal process for eviction, called summary proceedings, which must be followed to make someone move when they voluntarily refuse to do so. Even though there is no lease or formal landlord-tenant arrangement, the law presumes this relationship and requires use of the legal process by the landlord (homeowner). The procedure also protects the rights of the tenant (guest). In most situations involving a guest who won’t leave, the necessary way for the homeowner to proceed is to “terminate” the “tenancy”—the guest’s occupancy. This begins with the owner serving the guest a form called a Notice to Quit based on Termination of Tenancy. The notice must be in writing and include the tenant’s name and address. Under Michigan law, if there is no lease or agreement for a set time period, the landlord/owner can force the tenant to move, **without a reason**, by terminating the tenancy with the notice. The notice gives the tenant 30 days to move. If the tenant does not move within the time period, the landlord files the eviction complaint in District Court. Because of timelines built into the procedure, it can encourage parties to work on their differences outside of the court system. The courts are equipped with appropriate forms to assist those seeking to file an eviction suit. Forms are available at the courthouse or online at <http://courts.michigan.gov/scao/courtforms/landlord->

[tenantlandcontract/dc102c.pdf](#). Depending on various factors it can take a minimum of about 45 days to force a tenant to move. Evicting a tenant without the assistance of an attorney can be a challenge if the matter is contested. Since the law requires strict compliance with the procedure, mistakes can mean a case dismissal and starting all over. In most cases it makes sense to have the assistance of a lawyer.

Mediation is an out-of-court process used to resolve disputes and is a sensible alternative to court action. Both parties to the dispute must agree to participate in the process. Informal and less intimidating than the court process, mediation may provide an incentive for otherwise uncooperative guests to come to the table. Because it is flexible and encourages discussion to help parties resolve their disputes themselves, mediation helps to preserve relationships which might otherwise suffer under the adversarial process of the court system. It is also low cost and quick. Mediation usually takes place within two weeks of contacting a mediation center and sessions typically last about two hours. To contact a mediation center near you call (800) 873-7658 or call the State Court Administration Office at (517) 373-4839.

The Legal Hotline for Michigan Seniors is available to Michigan residents age 60 and over, free of charge, to assist with finding the best solutions to various legal problems. You can call (800) 347-5297 Monday through Thursday to set an appointment to have a lawyer call you. Hotline lawyers have the knowledge and resources to assist clients with a variety of legal issues. In cases requiring representation, document preparation or more specialized legal advice or assistance, the Hotline may be able to provide referrals to free legal services or to one of its Referral Panel attorneys.

The information in this article is general and not intended to be a substitute for legal advice. In any legal matter you should always consider consulting with an attorney for specific advice.