

Question: My mother invited a “friend” who was down and out to stay with her while she got herself back on her feet. The “friend” turned out to be an extremely unethical, manipulative woman who is now refusing to move out of my mother’s home after staying there for almost one year without paying any rent. My mother has asked her to leave and she has blatantly said “no.” I want to know if she has any tenant rights. She has never signed a lease or paid even one dime of rent money. I would like to have the police department remove the woman. This is a very distressing situation so I would appreciate any help that you can give me.

Landlord’s attorney Smith replies:

This is a tough question. From a legal standpoint, it is difficult to characterize the type of tenancy the manipulative “friend” has in the house. She is neither a month-to-month tenant nor a leaseholder, having never paid rent nor executed any written agreement. On the other hand, she is not a trespasser, having obtained consensual possession originally. Landlord/tenant law would describe her occupancy of the house as a tenancy-at-will. This type of tenancy may be terminated by written 30-day notice followed by the eviction lawsuit. As an alternative, I would suggest that the reader’s mother consider obtaining a restraining order removing the woman from the house as an alternative to an eviction. Check with an attorney in your area to see if you have laws that address this problem as some states have elder abuse laws and family codes that provide for kick-out orders in situations similar to this.

Tenant’s attorney Kellman replies:

I agree with Ted that this woman is probably a tenant-at-will and, as such, her tenancy may be terminated with a 30-day notice (or a 60-day notice as required in some areas) followed by an eviction court case if she refuses to move. Take care, however, because if she claims to pay “rent” with services or other things of value, she may not be a tenant-at-will at all. Some states will make an exception to the normal court eviction rule under certain circumstances. For example, if your mother is the owner of the home, and this woman is the only boarder at the home, she may be able to have her evicted by the police without having to go to court. In that case, you would serve her a 30 – or 60-day notice and if she does not leave, call the police. They could then remove her as a trespasser. Restraining orders are not favored by the courts as an eviction tool. That procedure is reserved to prevent violence or other serious threatening or harassing conduct.

And Eugene property manager and freelance writer J. Norton Cabell adds:

In Oregon there’s no tenancy-at-will in residential tenancies. Either she’s a month-to-month tenant or she isn’t a tenant. If she was never asked to pay rent, she’s more likely a guest than a tenant. A judge or jury, though, would make that determination based on the facts. But parsing the law isn’t called for here. Were it me, I would simply lock her out. If she tries to break in, call 9-1-1. If *she* calls the police—and you should prepare for this—explain she is a no-longer-wanted guest (you can even cite ORS 90.100(42), which defines a tenant) and that the matter is civil (as opposed to criminal); if there isn’t violence, they shouldn’t intervene. She can sue, of course, but even if she wins double damages for unlawfully being locked out, you would counterclaim for much more: a year’s worth of rent.