
BUSINESS ACTIVITIES IN THE RENTAL UNIT

Most landlords assume that tenants will use the residential premises for residential purposes. Some landlords may be surprised that the RTB-1 form of Landlord/Tenant Contract does not contain any provisions therein regarding the operation of businesses in a rental unit. Purpose drafted contracts may contain provision regarding the operation of businesses in a rental unit, but it is an often overlooked issue.

Most landlords would expect that a tenant would not operate a commercial business in a rental unit. For instance, any sort of manufacturing operation or large scale sales enterprises would probably be something that the landlord would not want to see in a rental unit. This would be especially true if the business generated a great deal of foot traffic in the way of employees or the public visiting the unit to make purchases. It would be wise therefore for the landlord to consider provisions regarding the operation of businesses in a rental unit.

Technology has really blurred the line when it comes to defining business operations within in a rental unit. Consider:

- A realtor who posts their listings from home, makes telephone calls and perhaps has clients over to discuss sales;
- A tenant who has a dedicated home office from which they conduct their business;
- A tenant whose livelihood is derived from sales of sports cards on Ebay and the tenant keeps their entire inventory in their rental accommodation.

All of the above activities would probably be defined as some sort of commercial activity. However, should that type of activity be banned from residential rental accommodation as conducting business or commercial activities? How should the practice be regulated given technological advancements and the recent escalation of the numbers of persons who work from home?

It is unlikely that a ban would be reasonable. Commerce today relies heavily on technology and technology allows people to conduct commerce from virtually

anywhere. Therefore, landlords are going to have to think about what type of commercial activity they might want to control or ban.

One type of commercial activity that a landlord might want to think about banning would be those activities that create noise, dust or create hazardous conditions. They would also want to make sure that employees do not come with any regularity to a home office or to a home based business as this may create liability issues. A landlord may also want to be careful about access by the general public to the home based business. Accordingly, any home based business operated by a tenant should have the proper insurance and, if required, be licensed by local municipal authorities.

Landlords should recognize that tenants are looking for flexibility and the ability to conduct commercial activities in and from their rental units. Landlords should be properly prepared to deal with this activity and should consider reasonable methods by which to monitor and regulate commercial activity in rental units.

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