

KNOW YOUR RIGHTS

SUCCESSION RIGHTS OF RENT REGULATED TENANTS

1. What are succession rights?

Succession rights permit certain occupants of a rent regulated apartment to lawfully become tenants of the apartment when the tenant of record (the person named on the lease) dies, permanently leaves or surrenders rights to the apartment.

2. What are rent regulated apartments?

Rent regulated apartments are those subject to the Rent Control and Rent Stabilization Laws of the City and State of New York. The general definitions are:

Rent Controlled

- Building built before Feb. 1, 1947
- Tenant has lived continuously in the apartment since before July 1, 1971.

Rent Stabilized

- Building built between Feb. 1, 1947 and Jan. 1, 1974 and
- Six (6) or more units in building.
- or building receives J-51 or 421a tax abatements.

3. Who has succession rights?

Succession rights are given by law

to certain family members and to other individuals with a “family-like” relationship to the tenant of record who meet succession criteria.

4. Which family members have succession rights by law?

The family members that can claim succession rights by law are: spouse, child, stepchild, parent, stepparent, sibling, grandparent, grandchild, parent-in-law, or child-in-law of tenant of record.

5. Who else may claim succession rights?

Any other individuals, who can demonstrate a “family-like” relationship to the tenant of record and meet the succession criteria may also be entitled to succession rights.

6. What is a “family-like” relationship?

Factors looked at to determine whether there is a “family-like” relationship include:

- length of the relationship,
- sharing of household expenses,
- mixing or sharing of finances such as credit cards or bank accounts,
- engaging in family-type activities together,
- the existence of wills, powers of attorney, domestic partnership declarations, etc.,
- holding themselves out as family members in public activities,
- regularly performing family functions for each other.

7. What is required to establish succession rights?

To establish succession rights the eligible family or “family-like” member must show that s/he lived continuously in the apartment with the tenant of record since:

- the beginning of the tenancy or,
- the beginning of the family relationship or
- for at least two (2) years prior to the death, departure, or surrender of rights of the tenant of record [one (1) year if the family member is a senior citizen or disabled].

8. When can succession rights be claimed?

Succession rights can be claimed when the tenant of record dies, permanently leaves, or surrenders rights to the apartment, or upon the first lease renewal after the tenant of record dies, permanently leaves or surrenders rights to the apartment. NOTE: Remaining family members may jeopardize or lose their succession claim if the rights are not claimed in a timely manner.

9. How are succession rights claimed?

Remaining family members should send a letter (preferably by certified mail) to the landlord explaining that the tenant of record has died, permanently vacated or surrendered rights to the apartment and that the family members are entitled to become the new tenants. In the case of death, a copy of the death certificate should be included with the letter. In the case of a surrender of rights, a letter or affidavit from the tenant of record to that effect may be included.

While not a claim of succession rights, the remaining family members may also notify the New York State Office of Homes and Community Renewal (formerly DHCR) that the tenant of record has died, left or surrendered

rights to the apartment if they receive any communication from the agency including, the Annual Rent

Registration form or the Maximum Base Rent Increase or Fuel Cost Adjustment application or order.

10. What documents or other evidence can be used to support a succession rights claim?

The person(s) claiming succession rights will need documents that show the family relationship and that they have lived in the apartment with the tenant of record for the required time period (see above). The following documents/evidence are useful in establishing succession rights:

- government ID's
- birth, death, or marriage certificates
- tax and other financial records (e.g. bank statements, credit card statements)
- employment records
- utility records (phone, gas, electric, etc.)
- school records
- voting records
- testimony of neighbors, family and/or friends

11. What if the landlord refuses to recognize the family member as a tenant?

Family members may do any of the following if the landlord refuses to recognize them as tenants:

- If the landlord commences an eviction proceeding against the family members, known as a "holdover", the family member(s) may raise succession rights as a defense to the proceeding and present any evidence (see above) to support their claim. The judge will determine

the rights of the family member(s).

- Family members may file a Request for Administrative Determination with the Office of Homes and Community Renewal to have the agency determine the succession claim. The decision of the agency will have the same effect as an Order from a court. NOTE: A Request for Administrative Determination should not be filed if a court proceeding has been commenced.
- Family members may file a Declaratory Judgment action in Supreme Court asking the Court determine the succession claim.

It is strongly recommended that family members consult an attorney before making a succession claim.

12. Where can I get more information?

For further information, you may call the Office of Homes and Community Renewal at (718) 739-6400, or view the Succession Rights fact sheets at: www.housingnyc.com/html/resources/faq/succession.html



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