

DEATH OF A TENANT

Who is the Sole Member of the Household

FRANK A. FLYNN, ESQ.
Flynn Law Group

The most important word to remember when facing the death of a tenant who is the sole member of the household is *possession*. The tenant's death does not automatically return possession of the unit to the landlord and subsequently it does not automatically give possession to the tenant's executor, emergency contact, adult children, friends, neighbors or any other person claiming the deceased's possessions. The instant a person passes away an estate is created; any property that the person owns in their name alone is automatically transferred to the estate. The property remains in the estate until it is distributed through the probate process.

Whether there is a will or not.

What does this mean for landlords and property managers? It means that until someone has been appointed as the personal

representative of the estate by the probate court, the unit and everything in it must remain secure. To protect yourself from liability, immediately upon learning of the death of a tenant secure the unit by changing the locks, that way any friend or relative who may have a spare key is no longer able to enter

the space without permission from Management. It's also wise to verify all the windows and any other entrances are securely locked. Since the unit is no longer occupied it's a good idea to double check any potential hazards, for example confirm the oven and stove are off, there are no lit candles, etc. Exercise caution!! Bring a witness when entering the apartment and don't do anything that you don't *need* to do.

It is important to guarantee that no one can enter the apartment on their own until the appropriate court documents are presented to Management. Verbal

confirmation is not enough, you wouldn't want to let the wrong person in to the unit and be held accountable for lost or stolen valuables.

During a recent seminar this very popular question came up, "What about the Funeral?"

Naturally the family may need clothing and other items for

the funeral, and in most cases it would be unreasonable to expect a family member to appear in probate court prior to planning a funeral. Though allowing anyone into the unit opens the landlord to liability it can be considered unkind or cruel to deny the tenant's clothing for the funeral to a friend or

"THE MOST IMPORTANT WORD
TO REMEMBER WHEN FACING
THE DEATH OF A TENANT
WHO IS THE SOLE MEMBER OF
THE HOUSEHOLD IS
POSSESSION"

relative. But protect yourself! Allowing someone to enter the apartment to obtain clothing or other items is not a requirement of the law, so managers and landlords can deny that access if they so choose. If you decide to allow someone to collect clothing, photos or other items for the funeral be sure to only allow one person to enter the apartment, and make sure they're supervised! Document what items are removed, either by making a list or perhaps take pictures or a video. Ask for the person's personal information and for them to sign the list or a form. Though this does **NOT** fully protect the landlord or property manager, it is better than nothing.

To guarantee universal understanding every property management company should have a

companywide policy regarding the appropriate procedure for handling these situations. If this policy is implemented and explained to employees properly it will save time, and help everyone avoid confusion and potential mistakes that could create a lot of liability.

“What if no Representative is appointed?”

“What if no one claims the possessions?”

“What about the security deposit?”

If you're facing these difficult questions, now is the time to contact the experienced attorneys of Flynn Law Group! We can also assist you by creating a clear legal policy to educate everyone at your company on how to handle the death of a tenant.

FRANK A. FLYNN ESQ.

FLYNN LAW GROUP

185 DEVONSHIRE STREET, SUITE 401

BOSTON, MA 02110

617-988-0633

WWW.FLYNNLAW-NE.COM