

Real Estate Q&A

Expert Advice for Owners and Renters



February 26, 2010, 12:14 pm

When Tenants Don't Pay the Rent

By JAY ROMANO

Q.

I leased my duplex apartment in Queens to two tenants who paid me the first month's rent and one month as security. When the next month's rent was due, they gave me a check that bounced. When I called them, they told me they did not have the money and would no longer be paying rent. I offered to cancel the lease if they would move out, but they refused. What can I do?

A.

Jamie Heiberger-Jacobsen, a Manhattan landlord-tenant lawyer, says that landlords in New York cannot evict tenants without court intervention, and that the only way to recover the apartment is to start an eviction proceeding in New York City Housing Court against the tenants.

Ms. Heiberger-Jacobsen said that because legal requirements for eviction were "strictly construed" against landlords — in other words, a landlord must do everything exactly as the law requires — hiring a lawyer was probably worth the expense.

"Although the cost of hiring an attorney may be daunting," she said, "most leases give landlords the right to recover their legal expenses if their lawsuit is successful."

If the tenants truly have no money, a judgment against them for legal fees may be difficult to collect. "So the most important thing is for the writer to act quickly to prevent the tenants from inflicting any more damage than they already have," she said.