

COVID-19: Hotels/Motels vs. Residential Tenancies: When Eviction Protections Apply

Whether you are in a **landlord-tenant relationship** or an **innkeeper/guest relationship** determines what rights you have regarding your residence. In some situations, it is unclear whether the relationship between the parties is that of a landlord/tenant or an innkeeper/guest. This brochure explains those differences.

LANDLORD/TENANT RELATIONSHIP:

Most residents in rental housing have a **landlord/tenant relationship** with the owner of the apartment or house that the resident occupies. If you are a tenant, the landlord may not use “self-help” methods to evict you, including changing your locks. A landlord may not remove you without going through the formal eviction process in court, which does not end until you have lost your case and the judge issues a writ of possession, an order that authorizes a peace officer to remove you and your belongings.

Self-help evictions of tenants are illegal in Texas.

Of course, tenants can always choose to permanently leave the unit in response to a notice to vacate or threat of eviction from a landlord. There are also limited circumstances under which a landlord may change the locks to a unit for necessary repairs or when a tenant is behind on rent, but the landlord must always provide a new key and must make sure to follow strict notice requirements under the Texas Property Code. For more on lock-outs, and how tenants who are illegally locked out can get a judicial order for immediate reentry, please see TRLA’s Lockouts Guide.

INNKEEPER GUEST RELATIONSHIP:

A hotel occupant and the owner of a hotel have what is known as an **innkeeper/guest relationship** and that is not a landlord/tenant relationship. When there is this type of innkeeper/guest relationship, the innkeeper (or hotel owner) may use “self-help” methods to evict (namely, changing the locks on a hotel room), so long as it can be done peacefully without a breach of the peace. If a guest refuses to leave, the innkeeper can also have the guest removed by law enforcement for criminal trespass.

Whether you have a landlord/tenant relationship or innkeeper/guest relationship depends on the facts, regardless of what it is called in your lease or contract. There is no bright line between these two types of relationships, but there are factors that may indicate whether you are in a landlord/tenant relationship or innkeeper/guest relationship.

The chart below illustrates some helpful factors to consider in determining what type of relationship exists. ***There is no magic number of answers that render a relationship a landlord/tenant relationship.***

Question	More likely an innkeeper/guest relationship	More likely a landlord/tenant relationship
How long has the occupant stayed there?	A few days or weeks	Longer than a month
What are the terms of the contract signed?	Standard hotel occupancy agreement	Appears more like a residential lease e.g. restrictions on guests, etc.
How often does the occupant pay to stay there?	Nightly	Monthly
Does the occupant receive mail at that address?	No	Yes
Does the motel/hotel provide cleaning service and towels?	Yes	No
Does the occupant have exclusive control over the unit?	No; Cleaning staff routinely enter.	Yes; no one else regularly enters the unit.

The answers to these questions do not automatically determine whether the relationship is a landlord/tenant or innkeeper/guest. But the more factors weigh in favor of a landlord/tenant relationship, the likelier it is that a judge would find that that the occupant is entitled to the protections of tenants, including the prohibition on lock-outs and the requirements that a landlord go through the formal eviction process.

If you believe that you have a landlord/tenant relationship with the owner of the place where you stay, and the owner has changed the locks to your unit or otherwise prevented you from accessing your unit without providing you an immediate method of obtaining a new key, you may file a request for a writ of reentry with the Justice of the Peace court in the precinct in which you live.

If you need additional help or advice with this process, you can contact Texas RioGrande Legal Aid at (833) 329-8752, Monday – Friday 9am – 5pm.