

When Evictions Met AirBNB: A Conversation

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What We Will Cover

- Types of Tenancies
- Tenants vs. Occupants vs. Lodgers vs Squatters
- Hotels & RV parks
- Short-term rentals/AirBnBs

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Types of Tenancies

- **Tenant for Fixed Term**
 - Lease agreement sets out duration and terms
 - What about an oral agreement?
- **Tenant at Will**
 - Consent but no set time
 - Can there be rent?
- **Tenant by Sufferance**
 - Previously had lawful possession, but wrongfully remain

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Tenants vs Occupants vs Lodgers vs Squatters

- **Occupants** – guests/subtenants of actual tenant
 - Have no standing, are always removed in an eviction
- **Lodgers** – people who are temporarily staying somewhere and are not tenants
 - Can be removed without an eviction, since they have no exclusive rights to possession
- **Squatters** – entered without permission, no claim to possession

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Byrd v. Fielding

- In *Byrd v. Fielding*, the court drew the following distinctions between a lodger and a tenant:
 - “Proof that the owner cares for the rooms, retains a key to the rooms, or resides on the premises in the course of a business of hiring out the rooms indicates a lodging contract.”
 - Proof “that the occupant exercises complete control over the rooms indicates a lease.”
- *Byrd v. Fielding*, 238 S.W.2d 614 (Tex. Civ. App.—Amarillo 1951, no writ)

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Hotels & RV Parks

- **Hotels**
 - Very large majority of the time dealing with lodgers
- **RV parks**
 - Can be lodgers or tenants depending on the facts
 - Remember that manufactured home rules don't apply

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Short Term Rentals/ AirBNB

- What if someone refuses to leave an AirBNB?
- How are they the same as a hotel? How are they different?
- What if they use an AirBNB for months? Get mail there?

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Short Term Rentals/ AirBNB Resources

- <https://www.autohost.ai/airbnb-eviction/>
- <https://www.airbnb.com/help/article/805>
- <https://texaslawhelp.org/article/guests-tenants-and-in-between-when-there-is-no-lease>
- <https://lamag.com/news/airbnb-rental-squatter-bel-air-tenant-from-hell>
- <https://abc7.com/post/airbnb-guest-evicted-more-month-after-overstaying-booking/15026088/>