



# How an Airbnb Guest Is Staying in an Apartment for Months 'Rent Free'

*A tenant refuses to leave a rental in Palm Springs, Calif.*

By **MEGHAN KENEALLY** July 22, 2014, 2:04 PM

An Airbnb Host has found out the hard way that the legal protections for tenants in some states means that guests could end up staying in their homes rent free for up to three months.

A guest who made a reservation to stay in Cory Tschogl's Palm Springs home for more than a month is now refusing to leave and reportedly told her that he has a legal right to the domicile.

Tschogl told *Business Insider* that she tried to get the male guest to leave after the first month of his scheduled 44-day stay, but now he claims to have consulted an attorney who told him that even though he did not pay past the first month, he is legally occupying the home.

A real estate attorney told ABC News that the guest may make out with a few rent-free months out of the deal.

In this particular case, the man is legally considered a tenant and Tschogl his landlord because they had an agreement that extended past one month.

The landlord-tenant law in California is very specific in terms of the process that a landlord has to take for an eviction," attorney Robert Spitz told ABC News.

There are two different notification processes for eviction in California, Spitz explained: A three-day notice of eviction and a 30-day notice, and though Spitz is not personally involved in this case, the timing suggests that Tschogl will have to give a 30-day notice as part of a formal legal filing.

Tschogl could not be reached for comment by ABC News.

"At the end of the day they're liable for the amount of money that they owe but the landlord is still frustrated because the landlord is unable to get possession of the property back during that period. The unlawful detainment process can take up to two months," Spitz said. "If the guy's a deadbeat, what does he care? He paid one month and he gets three months."

Landlord-tenant law varies by state, but New York City real estate attorney [Lorraine Nadel](#) told ABC News that it would be a similar situation if a guest overstayed their welcome in Manhattan.

"In New York State, if they're less than 30 days, the police will usually evict them. Once they're there for more than 30 days, they would have to go to court," Nadel said. "The landlord would

win, there's no way the tenant would be able to stay forever, but may be a couple months and they could have to pay a use-and-occupancy [fee] rather than rent."

For their part, Airbnb said that they have been working with Tschogl after she reported the signs of trouble at the beginning of Maksym's stay, which began on May 25 and was supposed to end on July 8 but shows no signs of ending.

"Officials from our team have contacted this host and she has been paid the full cost of the reservation and we're working with her to provide additional legal support as we move forward," Airbnb spokesman Nick Papas told ABC News. "We're also reviewing our procedures and making changes to our platform to give hosts more information about long-term reservations."

Spitz said that cases like this one happen more frequently than expected, citing a recent incident where a nanny refused to leave her employer's home in California last month. That said, he said there are steps landlords can take to protect themselves.

"It's incumbent on the landlord to do a credit check on their tenants," Spitz said

To some extent, even if the host does a background credit check, there's little a host can do to fight back against a guest when they decide to stay past the departure date they agreed to in the written contract.

"if it is for a fixed term, it doesn't really matter because under California law, if a fixed term tenant holds over, meaning they stay past the end date, they become a month to month [tenant]," Pepperdine University law professor Shelley Saxer told ABC.



*Cory Tschogl says the man to whom she rented her condo won't leave, even after getting a full refund.*



*Dickey waters: When someone stays in a residence for more than a month, they are technically considered a tenant and not a guest.*



Leah Millis/San Francisco Chronicle/Polaris

*Too good to leave: Tschogl originally agreed to have the tenant stay in her Palm Springs home (pictured) for 44 days, but now he won't leave.*