



Landlord Letter

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The Lawsuit Two Step — Questions to Ask

Most people take every effort to avoid getting involved in a lawsuit. We regularly tell our clients that even if you win a lawsuit, you've lost to some level because you had to deal with a lawsuit. If you are ever faced with a decision on whether or not to file a lawsuit, let me walk through a few important questions that you should consider.

First — Are you going to win the case? Don't file a LOSER LAWSUIT! The legal system can take your time and money , so do



everything you can to make sure you'll finish that process with a successful result.

Second — You need to make sure you can collect on whatever judgment you obtain. This second point can be a bit tricky because under Utah law you're limited in what financial verifications you can obtain before you file a lawsuit. After a judgment is entered you can force the defendant, under oath, to disclose all relevant financial information such as employ-
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“I was very impressed with the excellent customer service offered!”

~Moncia Google Review

Landlord Laughs — That's Assault, Brother!

We had a case where the tenant was being a nuisance and causing problems with other neighbors and tenants in an apartment complex. He also kept parking his car where he wasn't supposed to, which was a minor violation at the time that ended up helping us out later. After a few warnings about parking, around midnight one night the manager of the complex called a tow truck to have the vehicle towed.

A short time later the tow truck driver arrived to remove the vehicle. Based on his company uniform and his company truck (it was a huge flat-bed tow truck with lights on top and company logo on the side) it was certainly no secret that he was a tow truck driver.

The driver lined his truck up to tow the vehicle and got out to

obtain the VIN so he could report to the police that he had towed the vehicle. Before he had hooked up the car or done anything, the tenant came running out of the complex. He sprayed the driver THREE TIMES with mace and yelled “Stop stealing my car!” Apparently vehicle thefts are on the rise by using brightly colored tow trucks with the company name on the side (*sarcasm*).

The tenant then called the police to report an attempted vehicle theft, which backfired because the police ended up charging the tenant with assault and battery against the driver. Even better, now we had a solid case to evict the tenant based on the testimony of the two responding police officers.

Quick Tips: Organization of Your Eviction Case

- Make sure eviction notice copies are legible and complete (dated, signed etc).
- Lease agreement copy is legible and signed.
- Include a detailed ledger that breaks down the balance (rents, late fees, utilities, etc).
- Copy of any relevant communication between landlord and tenant (emails/texts).
- Include pictures that are helpful (before/after for any damage or posting of notices).



***Evictions in Weeks,
Not Months!***

So you still have time to enjoy your summer.

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ment, bank accounts, assets, etc. But you normally don't have that information available prior to filing (unless you have a recent and detailed rental application which is another topic for another day).

In an ideal world, you want to say "YES" to both of these questions. YES, you have a successful claim, and YES you'll be able to collect on the judgment.

It doesn't do you any good to file a lawsuit only to lose the case. Not only are you out your time and money for going through the process, if you lose there's a chance that a judgment could be entered against you that may include the opposing party's attorney fees. Likewise, it usually doesn't do you any good to file a successful lawsuit, obtain a judgment, and then find out that the defendant is "judgment

proof" (doesn't have any funds or assets to pay the judgment) or that they've filed bankruptcy.

Eviction cases are a little unique in this respect. The first question is still relevant — you don't want to file any lawsuit (eviction or otherwise) that you're going to lose. So make sure you have a good strong case before you file an eviction. BUT, even if you'll never be able to collect on the judgment, you should still consider an eviction because an eviction not only (1) pursues a judgment, but (2) seeks to return possession of your property back to you.

In conclusion, before you get involved in any lawsuit remember (1) NO LOSER LAWSUITS, and (2) make sure there's some benefit to you. Most of the time that benefit is in the form of collecting on a judgment, but in an eviction simply removing a dead-beat tenant from your property may be benefit enough.



Attorney Jeremy Shorts

Dear Attorney,

Q: *My tenant is claiming their personal property is being stolen and they demand to be released from the lease. Should I let them go or require them to fulfill the lease?*

A: This situation can be tough and will most likely come down to what your lease requires. Normally the tenant cannot just leave early and expect not to pay. However, you do need to make sure you are fulfilling your own obligations under the lease to provide a safe place for them to live. You can't control everything and you can't control what other people do and who they allow in their unit as a guest.

The best option would be to try and work it out with your tenant first to see if there is a mutually agreeable solution. Make sure you are taking reasonable steps to fulfill your obligations under the lease. If these efforts don't work, you can consider a collection case for the amount owed and you will probably be successful obtaining a judgment against them. The question becomes how much time and money it is worth for you to pursue them. If the tenant has collectable assets (steady wages, bank account, etc.), it may be worth it. However, if the tenant is already struggling financially or the balance is smaller, it may not be worth it.

There is no guarantees if you take it to court, so gather as much information and evidence as you can and then assess whether or not it is better to let the tenant go, or hold them to the lease.

Don't forget! You can contact us for a **FREE** 15 minute landlord consultation

Phone: (801) 610-9879

Email: info@utahevictionlaw.com

Website: www.utahevictionlaw.com



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Give a Five star Google Review (search "Jeremy Shorts Utah Reviews" and click on "Google Reviews").



You can also "like" our Facebook page and leave a review there.

(www.facebook.com/utahevictionlaw)





A special congratulations
to our attorney
David Todd for
welcoming another baby
boy into their family!!!

(Yes, this is actually his baby)

Calendar of Events



- May 1 — May Day
- May 5 — Cinco de Mayo
- May 8—Mother's Day
- May 21 — Armed Forces Day
- May 17—UAA Multi City Good Landlord Class
- May 19 — UAA Ogden Good Landlord Class
- May 30 — Memorial Day

Parting Thoughts

- We're working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email at info@utahevicitionlaw.com.
- Have an eviction question? Email it to us for a future newsletter!
- Help us build our online presence! You can "Like" our Facebook page (www.facebook.com/utahevicitionlaw).
- You can also give us a Five Star Google Review (search "Utah Eviction Law Reviews" and click on our link).

