



Landlord Letter

Free Forms & Notices — www.utaheviictionlaw.com

Phone: 801-610-9879 • Fax: 801-494-2058 • Email: info@utaheviictionlaw.com

How To Handle Property Left Behind

We commonly get asked what a landlord must do to handle personal property that a tenant leaves behind. Before discussing the legal requirements, let's talk about a few important practical pieces of advice that aren't required legally but can be helpful.

First – TAKE PICTURES OF EVERYTHING. When your tenant leaves, this will be your ONLY opportunity to take pictures showing how they left the property – in terms of the condition (including damages) as well as any personal property they've left behind. Everything means EVERYTHING. As an attorney, I commonly see

clients that give 3-5 pictures of a room full of stuff. I would much rather see multiple pictures from multiple angles within the room, but then also open each drawer and each cupboard to take pictures of the contents. This also helps with an inventory of the property.

Second, consider working with your tenants to have them voluntarily remove their property. Especially in residential situations, the personal property left behind usually has little to no monetary value. Following the legal process outlined below can

(Continued on page 2)



Landlord Laughs — The Tenant with 18 Prior Evictions

We often do eviction trainings for real estate agents and other groups of landlords and property managers. As we begin that training, we start with a piece of free legal advice – “Be careful about renting to Roslyn Fiedler”. That sounds like odd advice, but the reasons are compelling.

Between 1998 and 2015, Roslyn Fiedler has had **EIGHTEEN** evictions filed in the state of Utah. That doesn't count any other problems she's had with landlords that may have talked her out prior to having to file an eviction.

A few years ago we got a phone call from a landlord

asking questions about how to handle a situation with a tenant (they had just moved in and were behind on the rent). A lot of times this means that the landlord didn't do their own background check, so I asked for the tenant's name so I could do a quick check to see if they had any prior evictions.

The landlord said “Her first name is Roslyn,” and he hesitated when he said “and I can't remember her last name...” That's when I finished his sentence and said “Fiedler?” The landlord was shocked and wondered how I knew his tenant's name. I explained we've seen her name on the eviction court docket many times.

Quick Tips of Lockouts

- First — make sure you understand and follow the law.
- Communication with your tenants can help avoid problems.
- Do NOT change the locks without an eviction order or unless the tenant has voluntarily left.
- If you have any questions—ask an attorney!



(Continued from page 1)

be cumbersome, so it may make sense from a practical standpoint to allow your tenants to voluntarily remove their property.

With these practical considerations behind us, let's talk about what is required under Utah law (See [Utah Code Ann. §78B-6-816](#) for the statute). The landlord is not required to store certain items that may be considered hazardous or perishable (i.e. chemicals, hazardous materials, animals, garbage, perishable items) or items that may create a hazardous condition or a pest control issue if stored. But be cautious – One landlord's junk is considered another tenant's treasure. Legally and practically something may be garbage, but if a tenant claims it's not you have to address their claims.

For the items that are not hazardous or perishable, you should remove and store the items and the tenant cannot retrieve them unless they pay for removal and storage fees. The charges for removal and storage fees will vary on a case by case basis. It's best to be cautious and make sure the charges are reasonable. If you're dealing with anything fragile you should take extra care to avoid problems. In one of our cases we had to remove and store a Steinway grand piano. We hired a moving crew to handle the other items in the house, but for the piano we paid additional fees to have a piano company move and store it to avoid damage to the valuable piano.



The items must be stored for 15 days before any items are donated or sold. However, if the tenant was removed via eviction order, the tenant has an argument that [§78B-6-812\(3\)\(d\)](#) gives them an additional 15 days for a total of 30 days. To start this storage period, the landlord must post and mail a copy of a "Notice of Abandoned Personal Property" which notifies the tenant that the storage period has commenced.

If the tenant fails to make any reasonable effort to recover the property (including payment covering inventory, removal, and storage) and no court hearing is pending, then the landlord may either (1) sell the property at a public sale, or (2) donate the property to charity (if donation is a "commercially reasonable alternative"). If you intend to sell the property, a Notice of Sale must be mailed to the tenant's last known address at least five days prior to the sale date.

Finally, you cannot hold their personal property over the tenant's head in order to force them to pay any past due rent or other fees. But the tenant does have to pay the removal and storage fees before you have to release their stuff back to them.

At the end of the day, the practical advice we began with may be the best option to handle personal property left behind. If the tenant is uncooperative, make sure you follow the statute so you fully comply with Utah law.

Attorney Jeremy Shorts



Know Your Notice

• Three Day Pay or Quit •

Purpose:

Assists the landlord in re-taking possession when a tenant owes “rent or other amounts due.”.



A landlord is NOT required to accept a partial payment, but if partial payment is accepted the pay or quit is cancelled. The landlord must serve a new notice showing the new balance.

A Pay or Quit requires the tenant to do just that: (1) pay entire balance owed, or (2) vacate within three days. Those are the only two ways for a tenant to comply with this notice and avoid an eviction.

The three days stated in the notice is three calendar days — counting weekends and holidays. Do not count the day it was served. Day #1 begins the following day (For example—if served on Wednesday, the 3 days are Thursday, Friday & Saturday).

A landlord cannot modify the pay or quit to become a “pay AND quit” or a “notice to quit”. It MUST allow the tenant to either pay OR quit in order to comply with the eviction notice statutes.

Dear Attorney,

The neighbors told me they think my tenant is listing my house on airbnb.com. I knocked on the door and a stranger answered confirming they paid \$2,000 for the month when my lease is only for \$1,300. What can I do?

Q: *they paid \$2,000 for the month when my lease is only for \$1,300. What can I do?*

A: First, you should consider an eviction for breach of contract and assigning or subletting the property. But you’ll need to make sure that their actions (including subleasing) is a violation of your lease.

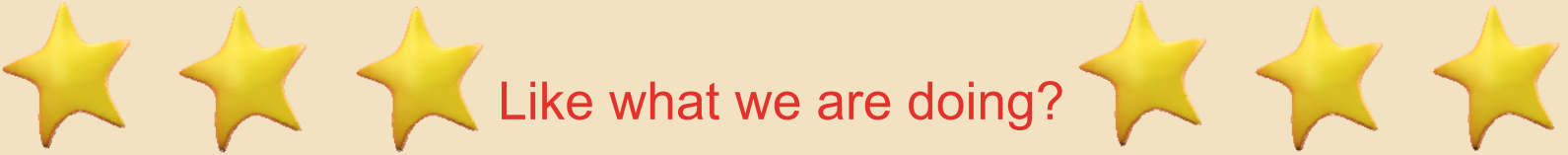
Under Utah law, a tenant generally may be allowed to assign or sublease the property to another tenant. However, even if a tenant is allowed to assign or sublet the property, that does NOT release them from their obligations to perform under the lease (including the obligation to pay rent).

If your lease is silent on whether their actions are against the lease, you may

have to live with their actions. If your lease forbids assigning or subletting, you should serve your tenants with two eviction notices against your tenant: (1) lease violations, and (2) assigning or subletting. You’ll also want to serve the guests with a “Five Day Tenant at Will” since they don’t have any legal rights to occupy the property.

This provides them notice of their violation and an opportunity to resolve the issue prior to legal action. If they fail to comply, you can then file an eviction with the court. But make sure you are documenting the violations just in case you need to convince a judge you are right.





Like what we are doing?

Help us build our online presence!



Give us a Five Star Google Review (search "Utah Eviction Law Google Reviews) and click on our link.

Or [Click Here](#) to go directly to our page.



"Like" our Facebook Page!

(www.facebook.com/utahevicitionlaw)



Evictions in Weeks, Not Months!

Calendar of Events



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 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 Google Reviews" and click on our Google Plus link).

- July 4 — Independence Day
- July 8—UAA Multi City Good Landlord Class
- July 24 — Pioneer Day
- July 13 — 14th Annual UAA Golf Tournament
- July 19 — UAA Ogden Good Landlord Class

