



Landlord Letter

August 2016

Starting an Eviction—Step #1: The Eviction Notice

Most of the calls we receive are because the landlord has had enough of the problems the tenant is causing and they want to know how to get started on an eviction. Over the next few months we'll walk through the basics of the eviction process, beginning with Step #1 – The Eviction Notice.

The first step is to serve eviction notices (notice the plural, we'll talk about that in a minute). The type of notice will depend on the tenant's actions. The eviction notices available under Utah law are all listed on our website (www.utahevictionlaw.com). Some of the more common notices are (1) three day pay or quit (for failing to pay rent), (2) lease termination (or no cause notice to vacate), (3) lease violations, and (4) nuisance.

When serving eviction notices, it's impor-

tant to remember that you can serve multiple eviction notices all at the same time. Doing so doesn't make the eviction any more difficult, it actually builds a stronger case. If the landlord serves five different eviction notices and the case ends up in front of the judge, as the attorney I don't need to prove ALL five eviction notices. I only need to prove one of the five and the landlord should be awarded an eviction order. The primary issue here is to ensure that you're serving any and all eviction notices that apply to the circumstances.

For example, if you have a tenant that is smoking marijuana in your property – that is only one act, but it could justify multiple eviction notices. First, smoking is usually a violation of the lease agreement. Second, smoking

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**Court Filing
Eviction Notice**

Courtroom Chronicles

Once we finish the eviction case and obtain a judgment, we will work to try to collect on the judgment to recover lost rents for our clients. Successful collections can be tricky and are usually a combination of legal skill coupled with a decent amount of luck. One of the strongest ways to collect is to locate their employment in order to get a wage garnishment in place. Often times the landlord will have that information in the rental application, but if not it can be difficult to locate.

We recently had a case that involved very little skill and a lot of luck. We had a hearing in front of the judge for the case. When the tenant showed up, it was really helpful (and lucky) that he was wearing a company shirt that even had his name embroidered under his company logo. When it came time to verify employment and proceed with collection, that information came in handy.





DOs & DON'Ts

Advertising for Tenants



DO

- Be clear about application expectations.
- Be open and honest during a showing.
- Be clear on the major lease terms and ensure the lease is signed before move in.
- Honestly answer any questions potential tenants may have.

DON'T

- Discriminate.
- Withhold necessary information about the property.
- Assume the tenant will be great without a background check.
- Promise things you don't know you can follow through on.



(Continued from page 1)

that drifts to other units can be considered a nuisance. Third, a criminal acts notice should cover the use of illegal drugs. Fourth, smoking causes damage to the property (waste eviction notice). Fifth, and finally, if the tenant is on a month to month basis you could serve a lease termination – no cause notice to vacate. That one incident could justify all five of these eviction notices. And again, successfully evicting them only requires proving one of the five eviction notices.

Once you determine which notices are appropriate, you should ensure that the notices are properly served. Utah law allows eviction notices to be (1) personally served, (2) substitute served (by leaving a copy of the notice with a person of suitable age and discretion and mailing another copy), (3) posting the notice in a conspicuous place on the property if a person of suitable age and discretion cannot be found, or (4) certified or registered mail.

Our standard recommendation for serving an eviction notice is to “Knock, Post and Picture.” First, knock on the door to attempt personal service. If no one answers, you can post the notice on

the door. Although not required by law, we also recommend taking a picture showing the notice was properly posted in a conspicuous place on the property.

Every now and then we have a landlord that wants to avoid embarrassment to the tenant so they email the notice or leave it in the mailbox or under a doormat and text the tenant to let them know it's there. While these may be effective ways to get the

notices to the tenant, they are NOT allowed under Utah law and can result in your eviction being dismissed. It is fine to also email or text the tenant about the notice, but you should still take every reasonable step to properly serve the notice in accordance with Utah law.

Finally, once you've selected the applicable eviction notices and properly served them on your tenants, you have to wait for the time to expire prior to taking any action. If the tenant refuses or fails

to comply with the eviction notice, you are then ready to have us file an eviction with the court. We'll discuss the next step in more detail next month, but call us if you have any specific questions about your case and how to proceed.



Sit back...
We have you covered.

**Evictions in Weeks,
Not Months!**

Email: info@utahevictionlaw.com

Phone: 801-6109879



Dear Attorney,

Q: *I am the owner of a property and I let someone live in my house without a lease. How do I get them out?*

A: This is not an uncommon situation. Many times friends or family members allow someone to live in a home temporarily, without a lease, but it turns into something more long term. Under Utah law, the person living there without a lease probably becomes a month to month tenant under an implied lease. Under Utah law, the owner would then become a landlord.

What that means is that even though you don't have a written lease agreement in place, once the owner allows someone to reside in the property for a period of time, they become a landlord and must use Utah's eviction statutes in order to have the friend/family member removed from the property. Typically, you can provide the tenant with a No Cause Notice to Vacate and terminate their tenancy. You can provide that to them 15 days prior to the end of the month. If they fail to vacate at the end of the month, you can move forward with seeking a court order to have them evicted and removed from the property.

Know Your Notice

• An Overview of Utah Eviction Notices •

Purpose: To begin the eviction process

Three Day Pay or Quit: Written notice requiring the tenant to either vacate or pay all past due rent, late

Lease Violations: Used to give written notice to the tenant of any ways they are violating the lease.

Lease Termination: This notice terminates the lease. Must be served at least 15 days prior to the end of the

Nuisance: Used where your tenant's actions have interfered with the quiet enjoyment of property from

Tenant At Will: Be cautious with this notice. It is used when the individual does not have any lease

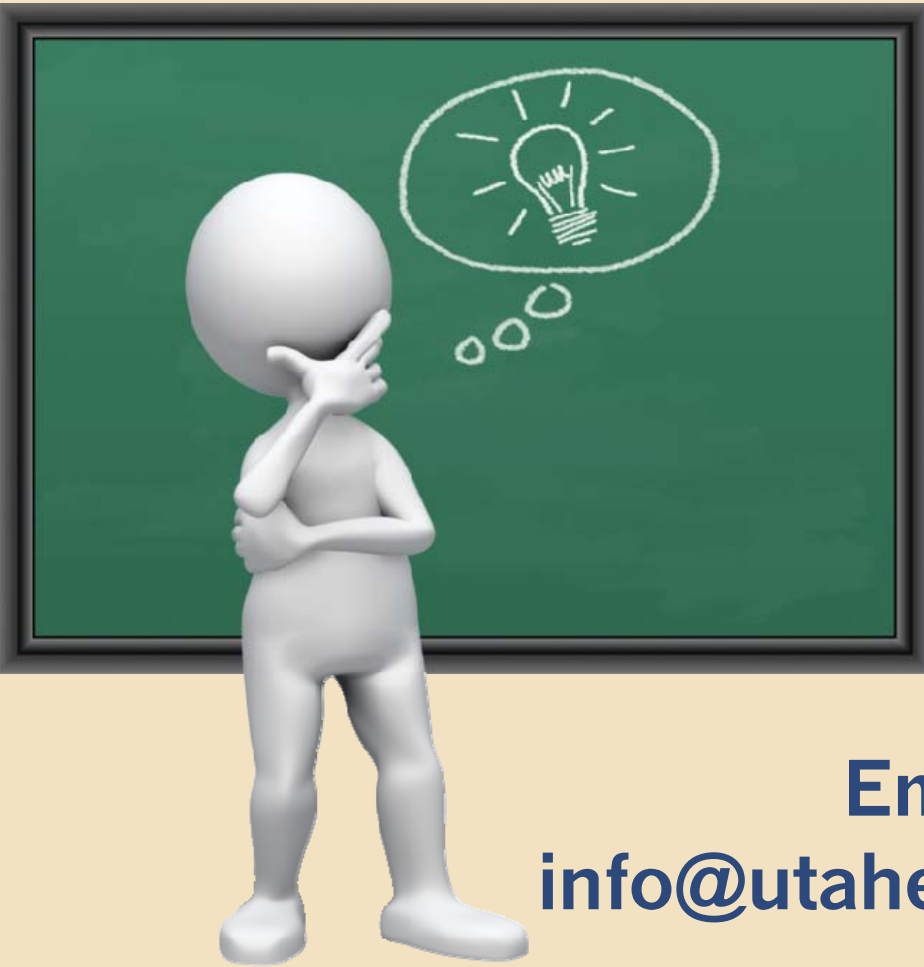
Criminal Acts: A tenant who commits crimes that impact the property are subject to eviction.

Unlawful Business: A tenant that is breaking the law by running a business may also be evicted.

Assigning or Subletting: If your tenant assigns or subleases your property in violation of your lease,

Waste (Damages): A tenant that damages your property is subject to a three day eviction notice.

Abandonment: Is presumed where a tenant leaves without notifying the landlord, is late on the rent,



Have an idea for
a future
newsletter?



We would **LOVE** to
hear from you!



Email us:

info@utahevictionlaw.com

Calendar of Events



- August 5—Summer Olympics begin in Rio
- August 9 — UAA’s Ogden Good Landlord Class
- August 19 — UAA’s Multi City Good Landlord Training Class
- August 21—Summer Olympics end in Rio

Parting Thoughts

- We’re working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email at info@utahevictionlaw.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/utahevictionlaw).
- You can also give us a Five Star Google Review (search “Jeremy Shorts Reviews” and click on our link).

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