



# Landlord Letter

November 2016



## Collecting Unpaid Amounts

How am I going to collect what is owed to me from my deadbeat tenant?!

Generally, the first priority with an eviction case is to get the tenant to leave the property. After that, the goal typically is to get the tenant to pay the landlord what is owed, whether the amount stems from unpaid rent, late fees, attorney and court costs or damages to the property.

One of the most effective strategies when dealing with collecting

what is owed is taking proper steps at the beginning of the tenancy that can help you collect in the long run.

Unfortunately, landlords need to anticipate that a tenant will fail to pay rent, cause damage to the property or create a nuisance. It is wise to consider these potential issues, even when signing up the most promising tenants. By obtaining proper personal information at the beginning of the proc-

*(Continued on page 2)*



## Quick Tips

### Collecting on a Judgment

- Take preemptive measures when you first get your tenant in the property.
- Keep track of any payments made from the tenant and where they came from.
- Keep track of any employment information.
- Keep track of any new addresses when the tenant moves out.

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ess, landlords can avoid potential headaches in the future.

Using a thorough rental application is one of the first steps to ensure that you are protected in case the tenancy goes south. An effective rental application should require that a prospective tenant provide social security numbers for all tenants as well as information on financial institutions the tenant uses. Also up-to-date employment information, including employer addresses, phone numbers, and income verification, such as W-2s or Forms 1099 can be extremely helpful.

In addition to a thorough rental application, be mindful to keep a record of payments made by the tenant, especially if the payments are checks. If you need to try and collect from you tenant in the

future, having a record of a previous check can assist you when looking for funds for a garnishment.

If landlords will be aware of the potential obstacles of collecting, they can better prepare themselves with preemptive measures to assist them with collecting if needed in the future. Additionally, if a tenant knows up front that you are serious about obtaining accurate information and protecting yourself, it may encourage the tenant to comply with their lease.

When dealing with a deadbeat tenant priority number one is getting them out, which can be a sprint if you do it the right way. Collecting from them once they are out can be a marathon. But, if you plan ahead and be thorough up front when the tenant initially applies to rent your property, you can avoid a lot of wasted time.

Attorney David Todd



# Know Your Notice

## • Five Day Tenant At Will Notice •

**Purpose:** Give a squatter notice they don't have a lease and must leave.



*A Tenant at Will Notice gives the tenant five calendar days to vacate the property.*



*Even without a written lease, a tenant might not be a tenant at will if the landlord has given verbal permission for the tenant to live there.*

*The only option for a tenant to comply with a Tenant at Will Notice is to vacate the property. There is no other cure.*

*Even without a written lease, a tenant might not be a tenant at will if the landlord has given verbal permission for the tenant to live there.*



# Dear Attorney,



*We filed an eviction with the court and the tenants filed their answer late (after the 3 day deadline). Why is the Judge still holding a hearing?*

Under Utah law a tenant facing eviction has three business days to file a written response with the court. The penalty for failing to file an answer is a “Default”, where the judge awards a judgment based on the failure to respond.

Even if your tenant filed their response late, if a judgment hasn’t yet been issued judges will still usually hold a hearing. Judges will issue default judgments if no answer is filed, but I know judges would prefer to listen to both sides and make a decision based on the facts of a case in-

stead of a technicality.

If you have a strong eviction case and have set up your case correctly, you really shouldn’t be concerned about going to an eviction hearing. Judges know what a good eviction case looks like. If the landlord has done everything correctly, they won’t hesitate to decide in your favor. Eviction hearings also give us an opportunity to meet with the tenant to discuss the case and work out a settlement that can be presented to the judge in the form of a court order.

## Landlord Laughs—Birthday Clause

You may have seen a story in the news about a tenant that changed the terms of the lease without the landlords’ knowledge. The landlord emailed a Microsoft Word version of the lease to the tenants and asked them to sign it.

The tenant added a paragraph hidden in the middle of the lease, signed it, and returned it to the landlord. The landlord did not notice the paragraph that was slipped into the lease and countersigned, making it a legally binding contract. What was inserted? “¶16 **BIRTHDAY CAKE**: Lessor shall provide birthday cake for lessee(s) on the weekend closest to their birthdays, which are June 7<sup>th</sup> and February 17<sup>th</sup>. Vanilla cake is not acceptable.”

Is it enforceable? Who cares! It’s hilarious. I’m hoping this started a positive relationship between landlord and tenant where twice a year they can break bread (or cake) and have a good time.



Lessee(s) shall be given seven (7) days notice of any default or breach.

16. **BIRTHDAY CAKE**: Lessor shall provide birthday cake for Lessee(s) on the weekend closest to their birthdays, which are June 7<sup>th</sup> and February 17<sup>th</sup>. Vanilla cake is not acceptable.

17. **USE AND ENJOYMENT**: Lessee(s) shall have the full use and



# Calendar of Events

- November 1—All Saints Day
- November 6—Daylight Saving Time Ends
- November 11—Veteran's Day
- November 15—UAA Ogden Good Landlord Class
- November 16—UAA Multi-City Good Landlord Class
- November 24—Thanksgiving



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## Parting Thoughts

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- 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](http://www.facebook.com/utahevictionlaw)).
- You can also give us a Five Star Google Review (search "Utah Eviction Law Reviews" and click on our link).

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