



Landlord Letter

February 2017

Fair Housing & Mystery Shoppers

No landlord or property manager wants to deal with any lawsuit, especially if they're defending a Fair Housing claim. Our advice to clients is to (1) understand what the fair housing laws are, and (2) play it safe, which means landlords shouldn't see how close to the "Fair Housing Cliff" they can get before falling off.

There are seven federal protected classes (race, color, sex, religion, national origin, disability and familial status), and three state protected classes (source of income, gender identity and sexual orientation). That does not mean that a member of a protected class is granted infinite rights to do whatever they please. If a tenant falls into one of these classes, landlords are forbidden from discriminating against them based on the



facts that placed the tenant in a protected class.

For example, a person with a disability must still qualify as an applicant by showing (1) stable income and ability to pay rent, (2) good rental history, (3) adequate criminal history, etc. But the landlord cannot deny that applicant or treat them differently because of their disability.

Fair housing claims may subject the landlord to three types of fines/fees: (1) administrative fines – up to \$10,00 for a first offense!, (2) civil lawsuits – seeking a judgment for damages and suffering, and/or (3) punitive damages if the courts feel the landlord needs to be punished – which could be \$1,000,000+.

Most landlords think it won't hap-

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Mark your calendars!

Jeremy will be teaching two UAA Eviction Trainings this Month
Find one in your area and come with questions!

Provo—Vision Real Estate

495 North University Ave (basement), Provo
Wednesday, February 22, 2017 @ 7PM

Murray—Utah Apartment Association

448 East Winchester Ste #460, Murray
Thursday, February 23, 2017 @ 7PM



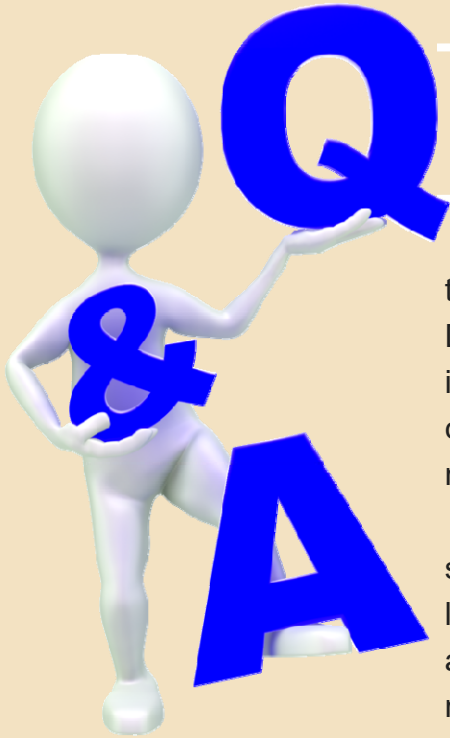
Dear Attorney,

I think my tenant may be conducting illegal drug activity in the property, specifically meth. What should I do?

First, you should take this allegation seriously. Consider conducting inspections according to your lease and contact the police if you see anything illegal. Depending on how strong your evidence is, you may want to think about serving an eviction notice (lease violations, criminal acts, nuisance, etc.). Meth can also damage the property, so you may want to consider a waste eviction notice as well.

If meth use is suspected, you may want to schedule a meth test to make sure you know what is going on in the property. Provide your tenant with at least 24 hours written notice and get a trained professional in there to conduct a test. If the tests come back positive, you should proceed with the eviction. It may be beneficial to contact the health department for further assistance.

Each case is different, so you should definitely contact an attorney to figure out the best way to go.



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pen to them, but you can see why we recommend to our clients to play it safe when it comes to fair housing issues.

A lot of clients ask where these complaints come from. The most common source is from existing tenants or those applying to become a tenant. If a tenant makes a complaint for fair housing, often times a “Mystery Shopper” will call or visit the landlord to ask questions. These mystery shoppers are used to investigate fair housing violations or corroborate the initial complaint. If they find a policy or practice that they feel is in violation of fair housing laws, a complaint can be filed against the landlord. Everyone, no matter the circumstance, should be treated equally and fairly. That applies to showing the property, talking with tenants, and even quick phone calls in response to an advertisement placed by a landlord.

A common myth is that a tenant needs an attorney

to make a fair housing complaint. HUD (U.S. Department of Housing and Urban Development) awards literally MILLIONS of dollars in federal funds each year for the primary purpose of confronting, investigating and pursuing fair housing issues and discriminatory housing practices. In September 2016, HUD announced that just over \$38,000,000 was awarded nationwide with Utah receiving approximately \$282,000. These funds are often used to pursue claims made by tenants even if they don't hire their own attorney.

When it comes to fair housing claims, what is better? (1) Winning a lawsuit, or (2) Avoiding a lawsuit altogether? Even if you win in court, you've still lost on some level for having to deal with the lawsuit. As landlords approach fair housing, instead of thinking about how to WIN a lawsuit, they should think about how to AVOID a lawsuit.

Attorney Jeremy Shorts



Know Your Notice

•Unlawful Business•

Purpose: To evict your tenant for conducting an unlawful business on your property.

Make sure your evidence is strong (witnesses, police reports, activity logs, etc.).

Keep good records of the unlawful business being conducting (i.e. pictures, emails, texts, etc.)

Like other eviction notices, it must be served in person, posted or sent via certified mail. It cannot be given verbally, texted or emailed.

This notice does NOT give the tenant an opportunity to cure. The tenant must vacate within 3 days or face an eviction.

DO's and DON'Ts After Hiring an Attorney



Tell them EVERYTHING—Surprises are harder to deal with than facts.



Ask Questions—This can help resolve all issues of the case.



Respond to your attorney. Failing to respond can be difficult for your attorney's ability to achieve a good outcome for you.



Discuss the case with your tenant directly.



Contact the court or opposing counsel.



Accept payment from your tenant once you've hired an attorney.

Courtroom Chronicles—Reputation

We always try to set up every eviction case as strong as we possibly can. If we notice any potential weakness, we'll work to correct it before we file anything with the court. We feel this has given us a good reputation for having strong cases.

A few months ago we ended up in court with a tenant that we were evicting. Before we went in front of the judge we spoke with the tenant to see if we could get something settled (even if we have a strong case, settlement is usually the best option). You never know how that conversation will go – some tenants report they've already moved out, while others get angry and aren't willing to negotiate at all.

As we first sat down with the tenant, he said "I tried fighting this and I've called a few other law firms and they all told me that you guys were good, so please go easy on me!" I chuckled and told him we'll do what we can to work it out. As luck (or reputation) would have it, we were able to get a stipulation in place which resolved the case.

Contact us for a **FREE** Landlord Consultation!

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Calendar of Events



- February 2 — Groundhog Day
- February 14 — Valentine's Day
- February 15 — President's Day
- February 21— UAA's Ogden Good Landlord Class
- February 22—UAA Eviction Training (presented by Jeremy)
- February 23—UAA Eviction Training (presented by Jeremy)

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 "Utah Eviction Law Reviews" and click on our link).

