



# Landlord Letter

May 2017

## ***New Landlord-Tenant Laws 2017***

The laws impacting landlords and tenants usually change each year. With the Utah legislative session in the books, 2017 was no different. It is important for landlords and property managers to keep up to date with these changes, let's take a minute to walk through them.

The largest changes came from House Bill 376 which focused on three primary changes, which go into effect on May 10, 2017. First, HB 376 expanded the types of evictions which are eligible for an expedited eviction hearing. Under the old statute only three types of evictions were granted an expedited 10-day hearing: (1) non-payment, (2) criminal nuisance, and (3) post-foreclosure evictions. Other types of evictions are often just as problematic or are very strong cases but if the eviction isn't one of these three types, the statute may push the eviction out 60 days for a trial.



One obvious example showing a need for change was no cause lease terminations. A tenant that is given a 15 or 30 day notice has very little defenses, but if they refuse to leave when the lease is terminated the landlord may have been forced to wait for a trial after 60 days (and he can't accept rent during that time).

HB 376 allows either party to request an expedited hearing in all eviction actions (including commercial evictions). The statute does NOT give you a stronger or weaker eviction; it simply speeds up the case so you can get in front of the judge faster for a decision. As the landlord, you still need to make sure you have a strong case so you can prove your case in front of the judge. But at least now the courts won't be as concerned with the type of eviction you're filing.

Second, some tenants and tenant attorneys were filing motions or other pleadings in an

*(Continued on page 2)*

*(Continued from page 1)*

attempt to delay the eviction. The statute used to state that the emergency eviction hearing shall be held “within 10 days after the day on which the defendant files the defendant’s answer.” If they filed a “Motion for Extension of Time” or a “Motion to Dismiss”, they would then argue that we can’t have a 10 day hearing because they didn’t file an “Answer”. Now the statute clearly allows for an eviction hearing once “the defendant files an answer or response”, which would include these other motions that were being filed. These stall tactics should become a thing of the past.

Third, judges now have more direction from the statute when issuing an order of restitution (or eviction order). Under the old statute, an order of restitution issued by a judge was three calendar days “unless the court determines that a longer or shorter period is appropriate under the circumstances.” Under the new statute, the judge can adjust the standard three day eviction order “after a finding of extenuating circum-

stances.”

In one of our cases we appeared at an eviction hearing ready to present our case but the tenant failed to appear. Most eviction orders are three days, but if a tenant fails to appear the statute allows the judge to issue an immediate eviction order. We asked for a three day order of restitution, but the judge stated he was inclined to allow 7-10 days because the tenant’s answer stated there were others living in the home (including children).

We explained to the judge that (1) the landlord had information that DCFS had actually removed the children months ago, and (2) the tenant failed to appear allowing for an immediate order of restitution.

After hearing our position, the judge still granted 7 days for the tenant to vacate despite the tenant not showing up. This situation is unlikely under the new statute.

Overall these changes are helpful to close the loopholes and delay strategies that tenants and tenant attorneys had been using. If you have any questions about these changes, call us for a free landlord consultation.

*Attorney Jeremy Shorts*



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

**Phone: (801) 610-9879**

**Email: [info@utahevictionlaw.com](mailto:info@utahevictionlaw.com)**

**Website: [www.utahevictionlaw.com](http://www.utahevictionlaw.com)**

# Dear Attorney,



**Q:** *My tenant finally vacated the property, but they left a bunch of their stuff. What do I do?*

**A:** If the property that is left behind is just garbage, you can dispose of it immediately without waiting.

However, if there is any question about whether or not the items are garbage or not, it's probably best to post a declaration of abandonment and hold on to the property for 15 days to allow the tenant the opportunity to come back and retrieve it.

You can move the items into storage and start to clean the place up. But you just can't dispose of it until they have been given the

allotted time to get it back.

Also, if you choose, you can require that the tenant first pay any reasonable removal and storage fees before you release the items to them.

If you have any questions as to what to do with the items, it is always a good idea to check with an attorney and run your thoughts by him or her before he you get rid of any items. That can save you from a potential lawsuit down the road.



## Do's and Don'ts of Considering an Attorney

	If you are an LLC, do hire an attorney. It is required under Utah law.		Assume it will be too expensive and proceed on your own. Sometimes you can spend more if it's not done right.
	Look at how often they file evictions. Experience and focus on the practice matters in both dealing with judges and tenants.		Use Google as your attorney. It can help get you started, but leave the legal advice to the attorney familiar with the state and it's specific laws.
	Look at the attorney's website. It can't tell you everything, but it can give you an idea about the firm and how it will handle your case.		Hesitate to give the attorney a call before you do something on your own. It may prevent a mess down the road.

## Landlord Laughs



CrAZy  
aNd  
HaPpY

When we are handling an eviction we still want to be professional and courteous when we're dealing with a tenant, even if they're a bit odd or difficult to deal with. We had one case where the tenant was several months behind on rent and began texting our office. The texts had a strange automatic signature at the bottom that said "--CrAZy aNd HaPpY--". This signature was at the bottom of Every. Single. Text.

The tenant would write "I can move out this weekend. --CrAZy aNd HaPpY--", or "Have you checked with your client? --CrAZy aNd HaPpY--".

As the case progressed we were successful in getting an eviction order from the judge. We maintained contact with the tenant to work through the transition of them moving out. Shortly after the judge signed the eviction order, we noticed that the text signature changed from "--CrAZy aNd HaPpY--", to "--LiFe'S a B\*#@%--"

We maintained a professional approach throughout the case, but had to chuckle at this change once the tenant realized it's important to pay your rent.

# Calendar of Events

- May 1 — May Day
- May 5 — Cinco de Mayo
- May 14—Mother's Day
- May 17 — UAA Ogden Good Landlord Class
- May 20 — Armed Forces Day
- May 20—UAA Multi City Good Landlord Class
- May 29 — 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@utahevictionlaw.com](mailto: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](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).

