



Landlord Letter

May 2018

2018 Legislative Update: New Abandonment Law & Other Changes

This legislative session I was grateful to Senator Margaret Dayton and Representative Keith Grover for agreeing to help run a bill that solves a problem with abandonment and also clarifies other issues in landlord/tenant law. The bill (SB 159) passed with a unanimous vote at each stage of the process. Let's walk through what SB 159 does.

First, SB 159 modifies Utah Code Ann. §78B-6-815 concerning abandoned premises. There is already a presumption for abandonment in place when (1) the tenant has not notified the owner that they will be absent from the premises, (2) there is no reasonable evidence that the tenant is occupying the property, and (3)

the tenant is late on rent (only one day late if the unit is vacant or 15 days late if the tenant's personal property is still there). There are two primary issues with the statute: (1) a presumption may be rebutted and challenged in court, and (2) there is no notice to the tenant contemplated by the statute.

This new statute solves both issues. The landlord may still rely on the presumption, but for an added layer of protection the landlord may also serve a "Declaration of Abandonment" after the presumption is met that contains a brief factual statement explaining the basis for abandonment. The tenant then has 24

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What people are saying about US!!!



I was amazed how quickly [Utah Eviction Law](#) was able to help me get an eviction for my rental home. They made a horrible situation so much better. Highly recommend.

~J.T. Orem —Google Review

Do's and Don'ts of Maintenance & Repairs



Keep receipts, invoices and estimates of any work done to verify the amounts owed



Handle maintenance and repairs verbally. Make sure your lease is clear on who is responsible for what.



Make sure you provide 24 hour written notice for any inspections, maintenance or repairs unless it's an emergency.



Ignore reasonable requests for repairs from the tenant. At least inspect the property to see what's going on and verify if a repair is needed.



Ensure all issues regarding maintenance and repairs are addressed properly in your lease agreement.



Assume the tenant has taken care of the repair that's needed.



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hours, excluding weekends and holidays, to provide a written response to the Declaration of Abandonment. If the tenant fails to do so, then the property is considered abandoned as a matter of law. This requirement puts both sides on notice of what the landlord's intentions are, and will help to clear up a gray area of law when it comes to abandonment. Once the premises are abandoned, the landlord must still comply with Utah law by removing and storing the property for 15 days.

Second, SB 159 also clarifies and modifies other eviction laws. For example, posting eviction notices used to refer to posting on the

“place of residence” but may exclude commercial properties or leased properties where the tenant is not residing. Posting is now allowed on the leased property. The old statute only allowed mailing service via certified or registered mail through the USPS. Language was added to allow for service via certified or registered mail “or an equivalent means” to allow for FedEx or UPS.

These changes are meant to help clarify Utah law on these issues, providing both landlords and tenants with a more clear understanding of the law. If you have any questions about these or any other statutory changes please contact us.

Attorney Jeremy Shorts

Dear Attorney,

Q:

My tenant was served with the eviction lawsuit and then tried to make a payment. What should I do?

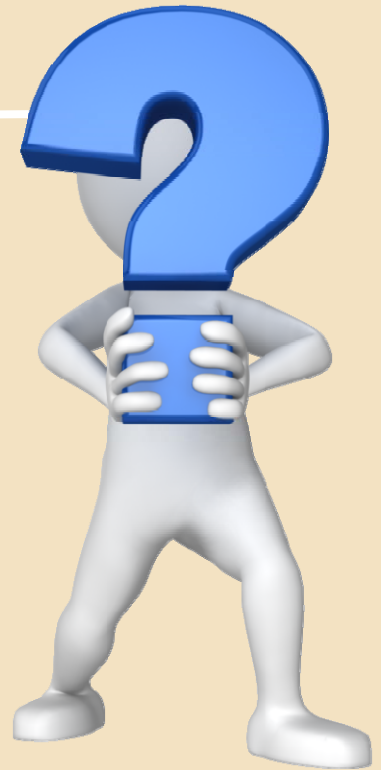
A:

If a summons and complaint has already been served on the tenant, accepting payment can cancel your eviction case. You should have your attorney handle this, which can including reducing a payment plan to writing regarding possession of the property, amounts owed, and what the payment means moving forward.

Sometimes tenants attempt to delay the eviction or ruin your case by making a deposit into the landlord's bank account, claiming the landlord accepted a payment in order to argue the landlord cannot move forward with the eviction. If this happens, make sure you clearly

communicate in writing that you are rejecting the payment and (only after their payment has cleared) will refund the payment to them.

Ultimately, once a case has been filed with the court, no payments are received or accepted without first entering into a written stipulation that can be enforced by the court. Having an experienced attorney will help to handle this sensitive situation.



Know Your Notice •Assigning & Subletting•

Purpose: Terminate your lease if your tenant has assigned or sublet in violation of the lease.

A notice of eviction based on assigning or subletting must provide the tenant 3 calendar days to vacate the property.

This is NOT a comply or vacate notice. Rather, compliance occurs only if the tenant vacates the property.

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

Keep in mind, an eviction based on a notice for subletting may turn into a he-said-she-said battle. Make sure your evidence is solid.

Landlord Laughs—You've Been Served



We recently had an attorney contact our office to dispute a judgment we had obtained a few months before. The tenant was adamant that we didn't properly serve him with the summons and complaint. This was a big deal because improper service is grounds to have a judgment set aside.

Our proof of service listed a physical description of the person that was served matching the tenant, but maybe it was a friend? We contacted our client to let them know what was going on. Our client not only remembered the tenant, but was with the process server when the papers were served! To top it off, our client HAD VIDEO of when the tenant was served!

In the video you can see the tenant being served, and you can clearly hear the landlord say "You've been served!" The video was convincing enough that the attorney just dropped their objection and allowed our garnishment to continue.



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).



Evictions Intimidating?
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15 minute
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