



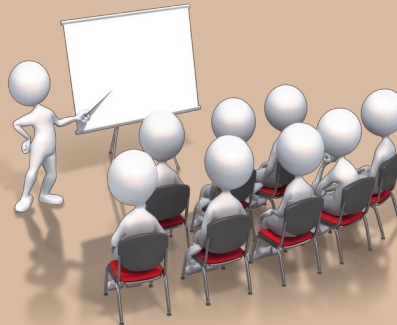
Landlord Letter

August 2018

Drafting Eviction Notices Like an Attorney

The large majority of our free landlord consultations focus on which eviction notices to serve and what facts should be included in the notices. Since the eviction notice is the foundation of your entire eviction case, this is probably the most critical step in the eviction process. Doing it wrong could doom your case before you even start. Doing it right creates a stronger case with a better likelihood of success when you're in front of the judge.

Let's start with a specific hypothetical situation and work through what I would recommend. It's not uncommon to get a call like this: "My tenant had ANOTHER party with too many people that was too loud and went too late. The neighbors called the police because of the noise and they smelled marijuana smoke. The po-



lice broke up the party, found drugs and there's damage to a few walls and the bedroom door."

First, whenever a landlord calls me with a crazy story like this, I go to our own website to review the list of all of the eviction notices (www.utahevictionlaw.com). Now that I know what happened, I select all of the eviction notices that are applicable. In this situation, I'd recommend: (1) Lease Violations, (2) Nuisance, (3) Criminal Acts, and (4) Waste. Yes, you should serve multiple eviction notices. We only have to prove ONE of these notices, but having multiple notices strengthens your case.

Second, what information should you include on the eviction notice? Usually you don't need to

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Free 15 Minute Landlord Consultation

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spill the beans and write out EVERYTHING. The purpose of the notice is to notify the tenant why they're being evicted. General statements are fine and our notices are designed to provide that detail by themselves (i.e. they're being evicted for being a nuisance, damaging the property, etc.), but we do recommend giving some details in the notice.

For example, in this situation we would recommend something like this:

Nuisance: You have interfered with the quiet enjoyment of the property by other tenants/neighbors by having loud parties and guests which resulted in the police being called. Suspected drug use and/or smoking has also created a nuisance.

Criminal Acts: You or your guests have used or possessed drugs and/or drug paraphernalia on the premises.

Waste: Damage to the living room walls, including holes and broken door to master bedroom.

Lease Violations: Read through your lease to see violations exist, for this exercise we used our free lease. Paragraph 15: Violation of peaceful enjoyment by causing or allowing excessive noise late at night which interfered with peaceful enjoyment by other residents/neighbors. Paragraph 18: Smoking within the property. Paragraph 21: Police located drugs and/or drug paraphernalia within property.

Again, you don't have to report every little complaint that you've heard, but including this level of detail gives them more than enough notice of why they're being evicted. If they fail to comply with the eviction notices, you've done what you can to build a strong foundation for your eviction case. As always, contact our office if you ever have any questions.

Attorney Jeremy Shorts

Quick Tips on Eviction Notices

- If applicable, serve multiple eviction notices to strengthen your case.
- Include enough detail to explain why they're receiving the notices.
- Make sure it's filled out and served properly.
- Keep a copy for yourself in case you end up filing an eviction.



Dear Attorney,

Q:

How much can I collect on a garnishment?



A:

There are a few types of garnishments, so let's talk about each one. First, the most common type of garnishment is probably a wage garnishment. Under Utah law, the employer should withhold 25% of the debtor's take-home pay after taxes and other legally required deductions. A wage garnishment continues for a minimum of four months, but will continue for up to one year if no other garnishments from other creditors are issued.

The other two common types of garnishments are bank garnish-

ments or tax garnishments. With these garnishments, the bank or the state tax commission will withhold 100% of the available funds up to the amount of the judgment. This means that if you have a \$5,000 judgment and the bank has \$7,000 in the tenant's account, you get your entire judgment paid. If they closed the account the week before your garnishment was issued, then you get nothing.

Tax garnishments work similar to bank garnishments (you get 100% of any return they would receive), but keep in mind it is only applicable against any STATE tax return (not applicable to federal returns).

See what people are saying about US!!!



“Utah Eviction Law took the stress out of the eviction. Worth every penny. Great People and a great law firm!”

-Daryl, Spanish Fork

Courtroom Chronicles

If an eviction notice isn't properly served, your eviction case may be dismissed. That's why we tell our clients to make sure the eviction notice is properly served (personal service, substitute service, posting on the property or certified mail).

In a recent case the landlord knew someone was home because there were lights on inside and the tenant's car was in the driveway. After knocking on the door repeatedly, the tenant refused to answer.

The landlord wanted to make sure the tenant saw the notice so he posted the notice on the door (as required by law), but also posted another copy on the front window of the home facing inward so the tenant could read it from the inside of the house. As he was leaving the house, he also posted another copy on the windshield of the tenant's car facing inward (so you could read it while driving).

While only the first posting is required, the tenant would have struggled to challenge service in this situation.

Calendar of Events



- August 5 — Friendship Day
- August 8 — UAA's Ogden Good Landlord Class
- August 28 — UAA's Multi City Good Landlord Training Class

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!