



Landlord Letter

September 2018

You Have a Judgment, Now What?



When a tenant is evicted and the court issues a judgment for the past due rent, attorney fees, etc., what happens next? Under Utah law – Nothing happens, unless the landlord (or their attorney) continues to pursue collections. There are several options to try to collect, but the collection process will not happen automatically.

Think of it in terms of fishing. Having a fishing license grants you the privilege of fishing. It doesn't guarantee that you'll catch fish, but it means that you can try. You still have to fish according to the rules and must comply with all applicable laws.

Similarly, a judgment grants you the privilege of attempting to collect, but having a judgment doesn't guarantee that you'll actually collect. It simply means that you can try. And while you're trying to collect, you still have to do so according to the rules and comply

with all applicable laws.

Under Utah law, one of the most common methods of collecting is through garnishments. A landlord with a judgment can pursue a wage garnishment where the employer is required to send you 25% of their take home pay (after taxes and legally allowable deductions). A wage garnishment lasts for a minimum of four months, but will continue for up to one year if no other garnishments cut you off.

A landlord with a judgment may also pursue a bank garnishment where any funds held in the bank are seized up to the amount of the judgment. That could be good if the tenant has substantial funds in the bank. But it also could be bad if the tenant doesn't have any funds or has closed the account. In that situation the landlord would get nothing.

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DO's & DON'Ts of Hiring an Attorney



DO

- Ask questions to gauge their knowledge about evictions.
- Give them the details of your case to allow them to give detailed advice.



DON'T

- Hire an attorney that is NOT experienced in your case.
- Assume certain information or documents are not important (give them everything).

Dear Attorney,

Do I need an attorney to do an eviction?



Depending on the circumstances you may be able to file your own evictions with the court, but Some cases require an attorney (i.e. if the landlord on your lease is an LLC or a property management company).

Having an attorney involves some expense, but it also comes with significant benefits.

Legally I can pull my car apart piece by piece and put it back together, but I still let the profes-

sionals change my oil. An experienced eviction attorney will help you increase your chances of success, watch out for legal pitfalls you may not be aware of, and can help save money by working through the eviction quickly (resulting in less lost rent).

But you shouldn't trust your case to the first attorney you can find. Ask them what their primary focus is of their law firm and how often they handle evictions. You want to find an attorney that specializes in evictions to make sure they handle everything correctly.

Finding a specialist will speed up the process, yield better results, and save money in the long run.

Know Your Notice

•No Cause—Lease Termination•

Purpose: Used to terminate your lease at the end of the initial term or during a month to month tenancy.

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

Even if both the landlord and tenant have verbally stated a termination date, it is best practice to follow up with a written no cause notice.

You normally can't terminate a lease in the middle of a month. If a 15 day notice is given March 20, the lease would terminate April 30.

Unless your lease requires more or less time, Utah law only requires 15 days notice to terminate a lease (but most written leases require 30 days notice).



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It is also an option to garnish a tenant's state tax returns (not federal returns). These are handled similar to a bank garnishment – you get whatever their state tax return is, as long as it's lower than the judgment amount. Landlords can also work toward filing a lien against any real property that the tenant might own (which might not apply if they're still renting), or pursuing a

writ of execution (which seizes property in order to sell it to collect on the judgment).

We tell our clients that evictions are a sprint and collections are a marathon. Sometimes people don't finish marathons, and in some cases you won't see anything from collecting, but that doesn't mean you shouldn't at least try. Contact us if you have any questions about your legal rights when it comes to collections.

Attorney Jeremy Shorts



Landlord Laughs

We have several cases where the landlord suspects that the tenants are using illegal drugs in the property. Doing so is usually a violation of the lease, but is also a violation of the law and creates grounds for eviction.

But proving drug use in court can be difficult and tricky. We have to bring in evidence that proves your case. Drug use is usually not done out in the open for all to see and witnesses might be hesitant to come forward.

In one case, the landlord was considering hiring us for the eviction involving drug use. When we questioned why the landlord was so positive that drugs were being used, the owner said "I know they've done drugs in the house, because I was with them when we were all doing drugs in the house."

While that evidence might be compelling, it creates other potential conflicts. We decided to pursue other options to resolve the case which worked out well for both sides.



Let us help you connect the eviction dots.

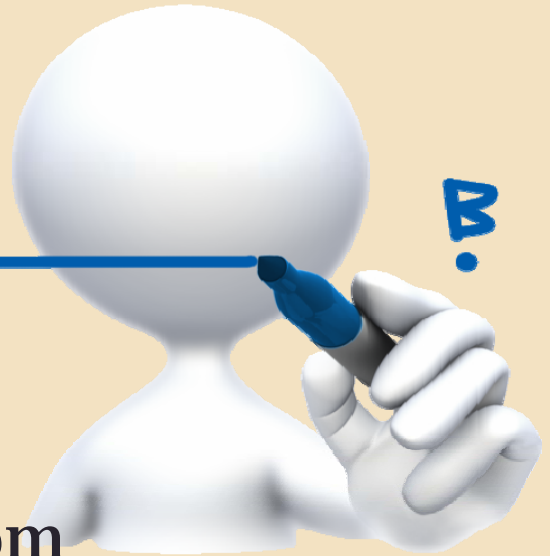
Contact us for a **FREE**
15 minute consultation

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B

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Calendar of Events



- September 3 — Labor Day
- September 11 — Patriot Day
- September 13 — UAA's Refresher Ogden Good Landlord Class
- September 22—Fall begins
- September 28— Full Multi-City Good Landlord Class



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

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 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 Google Plus link).