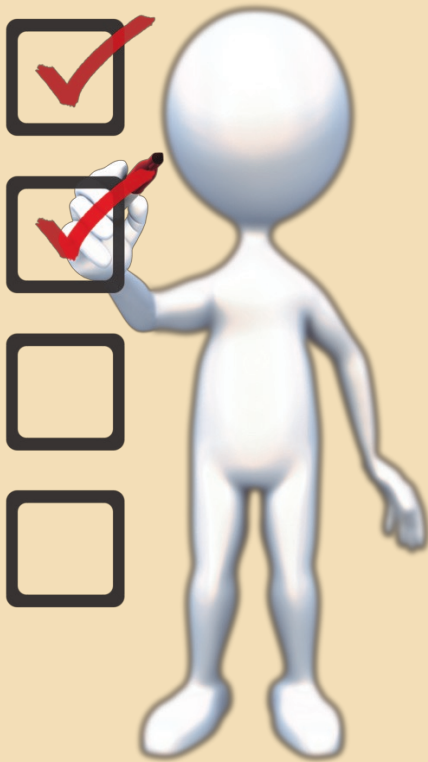




Landlord Letter

January 2019

Serving Eviction Notices



Utah law is clear on the four methods of serving eviction notices: (1) personal, (2) substitute, (3) posted, and (4) mailed (certified mail, UPS, FedEx). Personal service and mailing are obviously best (hand it to the tenant or send it via official mail). Substitute service involves giving the notice to “a person of suitable age and discretion” (typically 14 years old or older). If you cannot find someone of suitable age and discretion, then you may post the notice in a conspicuous place on the property. We typically recommend skipping service by mail because it can cause delays in the eviction process while

you’re waiting for mailing.

Our recommendation to our clients is the “Knock, Post, then Picture” method. First, knock on the door and attempt personal service. If you don’t get an answer (or if a child answers the door), then post the notice on the front door and take a picture with your phone. If you have a child answer the door and an adult or responsible person won’t come to the door, you can wait for them to close the door to finish by posting the notice and taking a picture.

As a side note, the statute recently changed concerning substitute service. Under the old statute, substi-

(Continued on page 2)



What people are saying about US!!!

I've worked with Utah Eviction Law on a couple of issues. They are very professional and good to work with. Jeremy Shorts is very knowledgeable about eviction Law. I would highly recommend him.

-M. Peterson



(Continued from page 1)

tute service also required you to snail-mail a second copy. Under the current law, the mailing requirement has been removed. This was an issue where you approach the home and serve the husband at the property but the wife isn't home, you've personally served the husband and substitute served the wife. There's no need to mail a second copy here.

If you are ever concerned about a volatile tenant or situation, your safety is critical so don't risk it. Take a witness with you or you can even contact the police for a "keeping the peace" call where an officer accompanies you to serve the notice. If you ever are serving an eviction notice and the situation escalates, walk away without making the situation worse. This is where a third party (attorney or process server company) can







get involved.

You'll notice that there are other methods that are NOT on the list (email, text message, putting it in the mailbox, etc.). These methods might provide more notice to the tenant, but where they are not authorized under the statute, they should only be done as a secondary measure AFTER you've complied with the statute. For example, if you think your tenants might be out of town, post the notice on the door but you could follow up with a picture of the notice sent to the tenant via text and/or email. Although this isn't required under the statute and it should not impact your eviction case either way, it does show the court that you're making a good faith effort to notify the tenant about what is going on.

If you have further questions, please give us a call or you can read the statute governing service of eviction

notices (Utah Code Ann. §78B-6-805).

DOs & DON'Ts of... Court Appearances

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|---|--|
|  <p>Appear! Make sure it is on your calendar and don't rely on the court or your attorney for reminders.</p> |  <p>Talk over the Judge. Let the Judge ask questions and finish before you talk.</p> |
|  <p>Dress for the occasion. You don't want the Judge to think you are the tenant being evicted for selling drugs on the property.</p> |  <p>Make facial expressions in response to the tenant's comments to show you disagree. The Judge will allow your attorney to have a chance to respond.</p> |
|  <p>Be on time! Showing up late gives the wrong impression that your time is more important than the court's time.</p> |  <p>Reject any discussion of an agreement. Often times you can receive a better result than the court if you can take time to work through the problem.</p> |

Dear Attorney,

Q:

I just found out that my tenant is not paying the gas bill so the utility company turned off the gas. What should I do?

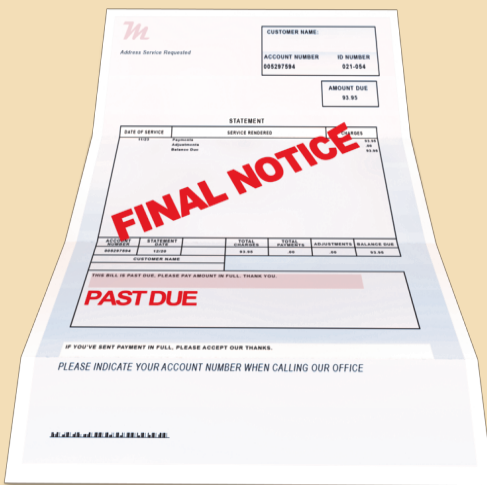
A:

That's a common concern this time of year. First, check your lease to see if it addresses your situation. Second, you normally DO NOT have a legal obligation to turn on utilities if they were in the tenant's name and were shut off for nonpayment (that's an issue between the tenant and the utility company that doesn't involve you).

BUT – From a practical standpoint, paying for utilities is probably cheaper and less time consuming than fixing frozen pipes. Again, follow your lease, but it might be better to pay the utilities and bill

the tenant.

Judges are fine doing an eviction for unpaid rent, but something like this might be a bit different. You should clearly communicate what you're doing and what your expectations are (i.e. needs to be paid with the next month rent and will be paid first before rent). If your rent is \$1,000 and utilities were \$200 and they only pay \$1,000, apply the first \$200 to the utilities with \$800 toward the rent. That way you can issue a pay or quit eviction notice for \$200 in rent (not utilities).



Courtroom Chronicles – Waterfall Water Leak

One client had a tenant that was refusing to pay rent until the landlord fixed a water leak in the downstairs bathroom. The landlord hadn't heard of any water leaks and wanted to check it out ASAP to avoid damage and to collect the rent.

The landlord brought his wife with him to see what the problem was. As the group all went downstairs to investigate, the landlord's wife noticed that one of the tenants stayed back and then snuck upstairs. It seemed odd, so she followed upstairs.

She watched the tenant enter the upstairs bathroom that was directly above the downstairs bathroom. The tenant forcefully pulled the shower handle away from the wall with one hand, and then began dumping a picture of water through a funnel in the wall so that it would drop to the downstairs bathroom while the landlord was looking downstairs.

The problem was the landlord's wife saw the entire thing. The tenant ended up getting evicted and didn't put up much of a fight.



Know Your Notice

• An Overview of Utah Eviction Notices •

Purpose: To begin the eviction process

Three Day Pay or Quit: Written notice requiring the tenant to either vacate or pay all past due rent, late fees or other amounts owed under the lease.

Lease Violations: Used to give written notice to the tenant of any ways they are violating the lease.

Nuisance: Used where your tenant's actions have interfered with the quiet enjoyment of property from other tenants and/or neighbors.

Lease Termination: This notice terminates the lease. Must be served at least 15 days prior to the end of the month, unless your lease requires more time.

Criminal Acts: A tenant who commits crimes that impact the property are subject to eviction.

Tenant At Will: Be cautious with this notice. It is used when the individual does not have any lease (written or oral) to live in the property.

Assigning or Subletting: If your tenant assigns or subleases your property in violation of your lease, they can be evicted.

Unlawful Business: A tenant who is unlawfully running a business on the premises may be evicted.

Abandonment: Is presumed where a tenant leaves without notifying the landlord, is late on the rent, and there is no evidence they're living there.

Waste (Damages): A tenant that damages your property is subject to a three day eviction notice.

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).

