



Landlord Letter

September 2021

U.S. Supreme Court Strikes Down CDC Eviction Moratorium

In a 6-3 ruling, the U.S. Supreme Court (“SCOTUS”) ruled on August 26, 2021 that the CDC exceeded its authority by issuing the most recent eviction moratorium (Click Here to read the full ruling). Effective immediately, the CDC Eviction Moratorium is invalid in Utah, and nationwide.

In striking down the CDC Eviction Moratorium, what exactly did SCOTUS say? Here are a few highlights:

- *“...our system does not permit agencies to act unlawfully even in pursuit of desirable ends. ... It is up to Congress, not the CDC, to decide whether the public interest merits further action here.”*
- *“This claim of expansive authority under §361*

(a) is unprecedented. Since that provision’s enactment in 1944, no regulation premised on it has even begun to approach the size or scope of the eviction moratorium. ... Section 361(a) is a wafer-thin reed on which to rest such sweeping power.”

- *“Indeed, the Government’s read of §361(a) would give the CDC a breathtaking amount of authority. It is hard to see what measures this interpretation would place outside the CDC’s reach, and the Government has identified no limit in §361(a) beyond the requirement that the CDC deem a measure ‘necessary.’ Could the*

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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).

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CDC, for example, mandate free grocery delivery to the homes of the sick or vulnerable? Require manufacturers to provide free computers to enable people to work from home? Order telecommunications companies to provide free high-speed Internet service to facilitate remote work?"

Now that the CDC Eviction Moratorium has been overturned, evictions for non-payment can now proceed as normal. The CDC Eviction Moratorium only applied to non-payment of rent cases, so other types of evictions (for lease violation, damage to property, nuisance, criminal acts, etc.) have never been impacted by the moratorium and may continue. The CARES Act may still apply to your property if your mortgage is federally backed or you participate in government programs with your

rental. If so, you may need to provide a 30 day notice to vacate.

If you have a tenant that is behind on rent, not communicating with you, or isn't cooperating to apply for rent assistance, you can either serve a pay or quit notice ([Click Here](#) for our eviction notice) and begin the eviction process, or you can have us file a rent assistance application. Contact us for help submitting an application and the state will cover the cost for our involvement. Contact us to move forward with the eviction (info@utahevictionlaw.com or 801-610-9879). If you have any questions about the CDC Eviction Moratorium, the SCOTUS ruling, or specific questions concerning your rentals, please contact us.

Attorney Jeremy Shorts

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).



Dear Attorney,

Can my tenant allow their assistance animal to use the balcony as a bathroom? There have also been other problems, so I'd like to terminate the lease, what can I do?

Allowing the animal to use the balcony can cause damage, create odors, and can also create a health issue. Even if a tenant has a legitimate assistance animal, the owner can still impose reasonable rules to address the animal. These rules often include monitoring the animal in common areas, cleaning up after the animal, and avoiding nuisance behavior (excessive barking, etc.). As part of these rules, it is probably reasonable to require an animal to use the bathroom outside on the grass. Be reasonable and communicate with your tenant to talk about options.

To answer your section question about terminating the lease, you will want to be careful. You cannot terminate a lease because a tenant has

an assistance animal. However, you can do so if there are other legitimate, non-discriminatory reasons (i.e. scheduled remodeling, other lease violations, etc.). You will want to take steps to clearly show that your reasons for terminating the lease have nothing to do with the existence of an assistance animal. Document the other violations or problems, communicate with the tenant and give them an opportunity to respond.



Courtroom Chronicles

A landlord came into our office to hire us for a new eviction case. He had tried working with his tenant but it wasn't going well. He expressed his frustration with the situation, was glad that we could help, and admitted he needed to file an eviction.

The landlord has lived in the US for several years but was originally from Russia. After we explained the eviction process here in Utah and walked through exactly what we needed to do, we explained that we are usually only a few weeks to work through the court process to complete an eviction.

He then muttered under his breath "Man, I wish I could do this the way we did it in Russia."



Let us help you connect the eviction dots.

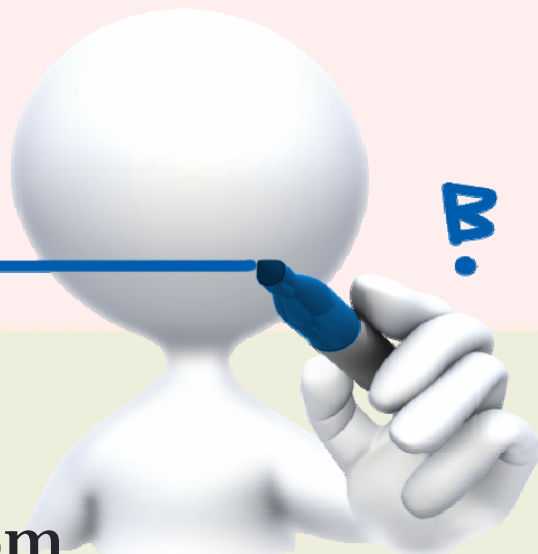
Contact us for a **FREE**
15 minute consultation

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B

Phone: (801) 610-9879

Email: info@utahevictionlaw.com



Calendar of Events



- September 6 — Labor Day
- September 11 — Patriot Day
- September 22 — Fall begins



***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).