



# Landlord Letter

## Are you Exempt from Fair Housing Laws?

We've covered several aspects of the Fair Housing Act, reasonable accommodations, and emotional support animals. But there are limited situations where a landlord may elect to deny an ESA even if the tenant meets all of the normal qualifications for a reasonable accommodation request.

Let's talk about when a landlord may be exempt from fair housing laws. There are two primary exemptions to the fair housing act: (1) the Small Landlord Rule, and (2) Mrs. Murphy's Rule. Both exemptions are found in Utah Code Ann. §57-21-3.

### The Small Landlord Rule

Small landlords that meet four elements can qualify to be exempt from fair housing laws. All of these elements must apply in order to claim the exemption.

- The owner is NOT a business entity (title is held in the owner's personal name), AND

- The owner owns three or fewer rental units (no 4-plexes or higher), AND
- The owner has not sold two or more rentals in the last 24 months, AND
- The owner does not retain or use a real estate broker or agent.

The Small Landlord Rule steps in to protect smaller or inexperienced landlords from the nuances of the Fair Housing Act.

### Mrs. Murphy's Rule

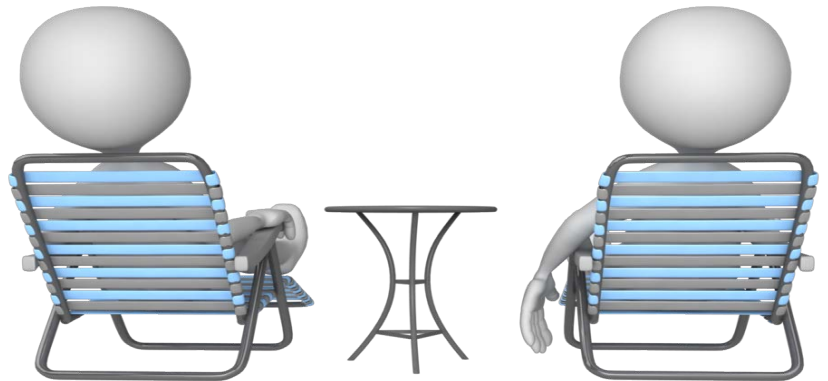
Who is Mrs. Murphy? She is the hypothetical elderly widow on a fixed income who converted part of her own home into a rental to supplement her limited income. In this situation, Mrs. Murphy isn't required to follow the Fair Housing Act and may elect to deny an ESA.

*(Continued on page 2)*

# hello,



*It's been a while since  
I've seen you last...*



To qualify for the Mrs. Murphy's Rule exemption, a landlord must meet all of these elements:

- The rental property **MUST** be four or fewer units, **AND**
- The owner **MUST** reside in one of the units.

### **Exception to the Exemption – Advertising**

An important point to be made is that even if an owner qualifies for one of the above exemptions, the owner still **CANNOT** advertise in a discriminatory way. For example, the landlord could not advertise that they do not accept ESAs.

In the end, a landlord should still be cautious and courteous even if they qualify for the above exemptions. If you plan on relying on the exemption, we recommend that you clearly communicate this to your tenant to explain your exemption claim. This doesn't mean that a tenant cannot still file a fair housing complaint, but you would have a defense to such a claim. Anytime a fair housing issue arises, you should always consult an attorney to handle your specific situation.

*Attorney Jeremy Shorts*



## Know Your Notice

### •Nuisance•

**Purpose:** Used to terminate your lease based on your tenant's actions that constitute a nuisance.

*Use this notice when your tenant is interfering with someone else's comfortable and quiet enjoyment of their life or property.*

*A nuisance can be anything that injures someone's health, is indecent, or is offensive.*

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

*Some typical types of nuisance:  
Disturbing neighbors, late and loud parties, smoking, gambling, prostitution, buying/manufacturing/selling drugs.*

# Dear Attorney,

***My tenant is in jail and his brother (who isn't on the lease) is requesting access to the property. Should I give them access?***

This one is simple – NO! The only party you should provide access to is the tenant on the lease agreement.

You should also always check your lease to see if it provides any guidance on how to handle this situation. Perhaps the lease permits you to provide access to an emergency contact in the event of incarceration.

As an alternative, you may work with the tenant to receive written consent to provide access to the brother, but you should be extremely cautious in this situation.

If you granted access to the brother and the brother removed or damaged the tenant's personal property, you could be liable for that damage. It's best, if possible, to have the tenant work this out with friends or family members.

In addition, incarceration usually is temporary and wouldn't terminate a lease or change the tenant's primary residence. You should probably plan on proceeding with serving eviction notices followed by an eviction case with the court.

## Quick Tips of Security Deposits

- ✓ Require the initial payment (rent & deposit) to be paid via certified mail or in person.
- ✓ Make sure your lease outlines the terms of the deposit (when it's paid, what it can be used for, and what portion is refundable) and don't allow the deposit to be used for rent.
- ✓ Check your lease, but if the deposit has NOT been paid and is past due, consider applying the next rent payment towards the deposit which leaves a balance still owing. Serve a three day pay or quit if needed.
- ✓ Do not assume the tenant will not ask for the deposit back after they have left. Ensure you detail how the deposit was applied and properly notify the tenant of the deposit disposition.

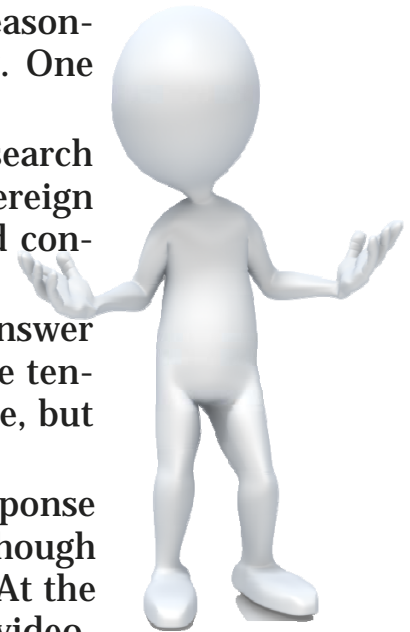
## Courtroom Chronicles

We see a wide variety of responses to our cases. Most people are reasonable and looking for solutions. Others are crazy from the beginning. One particular case involving a Sovereign Citizen still stands out years later.

If you're not sure what that is but want to waste a lot of time, search "sovereign citizen in court" on YouTube. The short version is that sovereign citizens refuse to acknowledge the jurisdiction of the government and consider themselves exempt from state or federal laws.

Instead of ignoring our lawsuit, this specific tenant filed a crazy answer that questioned the judge's ability to make any decisions related to the tenant. We requested a hearing, expecting to have the judge hear the case, but the judge had another idea.

Instead of granting our hearing, the judge ruled that the tenant's response wasn't even a proper response and granted an eviction order (even though we hadn't even asked for one yet). In the end, the tenant lost (badly). At the lockout, the entire police force showed up and neighbors came out to videotape and cheer when the tenant was arrested. I wonder if spending a few nights in the slammer helped to change his mind on the reality of the government... I doubt it.



### Parting Thoughts

- We're working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email [info@utahevictionlaw.com](mailto: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](http://www.facebook.com/utahevictionlaw)).
- You can also give us a Five Star Google Review (search "Jeremy Shorts Utah Reviews" click on our link).



### **What people are saying about US!!!**

"David Gardner went above and beyond to offer me legal advice. I was panicking due to the discovery of the meth on my rental property in the process of trying to sell. David gave me the right advice at the right time..."

~G. S. —Google Review