



Landlord Letter

December 2022

Tips for a Strong and Speedy Eviction

Our clients commonly want to know – “What can I do to build a strong case and make the eviction process as painless as possible?” Let’s talk about some of the important things a landlord can do to complete their eviction quickly but still have a strong case.

First – Involve an eviction attorney early in the process, especially if you have any questions or concerns. The eviction laws in Utah are very strict. We often see delays or dismissals in cases because the landlord used the wrong notice or didn’t follow all the eviction laws. If you have any questions or concerns about how to proceed, involving an attorney early in the process is a critical step.

Second – The eviction notice is the foundation of your entire case. If you serve the wrong eviction notice or it’s not properly served, your case will likely be delayed or dismissed. Make sure you are confident that you’re serving the correct eviction notices and they’re served the correct way.

For example, in 2020 the eviction statutes changed requiring that pay or quit notices to be three business days instead of calendar days. Using an old pay or quit eviction notice that lists calendar days gives the tenant an argument that the notice was invalid.

Third – If the circumstances fit, you should serve multiple types of

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eviction notices. In order to win an eviction, you don't have to prove all of the eviction notices that were served. If only one eviction notice is served, then you have to prove one notice in order to win. However, if multiple eviction notices are served, you have multiple chances because you only have to prove one notice in order to win your case.

Finally – You should always document your file as you gather evidence to support your case. Do what you can to take pictures or videos of problems or lease violations. This one simple move can avoid a “he said, she said” battle by providing the judge with concrete proof to back up your eviction.

By way of example, if we have a client call about a crazy situation, I pull up our own website that lists all of the available eviction notices under

Utah law (<https://www.utahevictionlaw.com/free-utah-eviction-and-rental-forms>), and I list all of the notices that should be served. If your tenant is late on the rent and you discover during an inspection that they are smoking in the property and have sublet the property, you should serve (1) a three business day pay or quit, (2) lease violations (for smoking and subletting), (3) nuisance (if the smoke is drifting into other units), (4) assigning or subletting, (5) tenant at will (if you know the name of the subtenant), and (6) if they're on a month to month, serve a lease termination notice.

Following these simple steps may help to avoid an eviction altogether. But if you take all these steps and still find yourself in an eviction, you've just significantly increased your chances of success.

-Attorney Jeremy Shorts

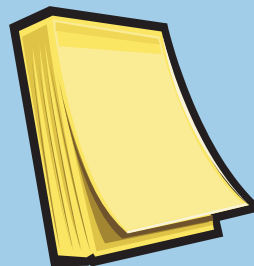


Know Your Notice

• Abandoned Personal Property •

Purpose: Addresses personal property left behind by a tenant .

This is a recent change under Utah law when handling abandoned personal property.



Instead of storing items for 30 days, the law requires the landlord to store the items for fifteen days.

If the landlord is going to sell, donate or dispose of any items, they must give a notice of sale to the tenant at least five days prior to the sale.

A landlord does not have to store hazardous materials, animals, garbage, perishable items, etc.

Dear Attorney,

Q:

I need to evict my tenant, but they just filed for bankruptcy. What should I do?

A:

Almost anytime someone files for bankruptcy there is an “automatic stay” of legal action put into place. That means that you, or any other person that may be owed money, cannot take legal action against the tenant. As soon as you know they have filed bankruptcy, you should consult an attorney immediately.

When this happens to one of our clients, we first immediately confirm with the bankruptcy court whether they actually have filed for bankruptcy. If they haven’t filed yet, then we can proceed with an eviction as normal until they file. If they have filed for bankruptcy,

then we need to go to the bankruptcy court and request permission to “lift the automatic stay” to allow us to proceed with an eviction.

Filing bankruptcy can extend the eviction process from our normal timelines of 2-4 weeks, to 2-4 months. It is time consuming and expensive to proceed with an eviction when a bankruptcy is involved, but it is important to follow the guidelines and laws. Failure to do so may result in legal action against you from the bankruptcy court.

Quick Tips ... Record Keeping & Evidence



Memories fade, so document **EVERYTHING** when it’s fresh.



Get witness statements and contact information in case they move.



A picture is worth a thousand words
(1,000 pictures = 1M words).



Don’t want to track paper files? Use a scanner.





Courtroom Chronicles

Most tenants follow the lease and take care of the unit. But no one ever calls their eviction attorney to talk about those tenants. What do you do if your tenant just moves in and it's obvious they're headed toward a hoarding situation of filth?

For one of our clients, they took the wise approach of working with the tenant. When that didn't work (after several weeks), we ended up in court. The tenant hired an attorney who was adamant that we didn't have a case and claimed that the tenant had cleaned up the unit.

While the tenant was on the stand, her own attorney asked if the unit was cleaned at the end of the eviction notice. The attorney fully expected her to state "Yes, it was spotless." But instead, she shrugged her shoulders and said, "It was on its way." You could see the disappointment in her attorney's face, but what was worse was when she then said "Oops, was that bad?" Yep, it was bad. And the judge ruled in our favor to grant the eviction.



What people are saying about US!!!

Very pleased with Utah Eviction Law, Jeremy Shorts, attorney. Everything was handled professionally and as quickly as possible. Evicting tenants is always difficult. Utah Eviction Law helped everything run as smoothly as possible.

~Shaunna — Google Review

