



# Landlord Letter

## Utah's Eviction Process and Flow Chart

Evictions can get complicated, but that's why you hire a professional. Our office has handled thousands of eviction cases over the years, so it's rare that we come across a situation that we haven't seen before. Because of this experience, most of our cases take 2-4 weeks to work through the court system. Let's take a quick look at what that process looks like.

Most evictions are handled in three steps:

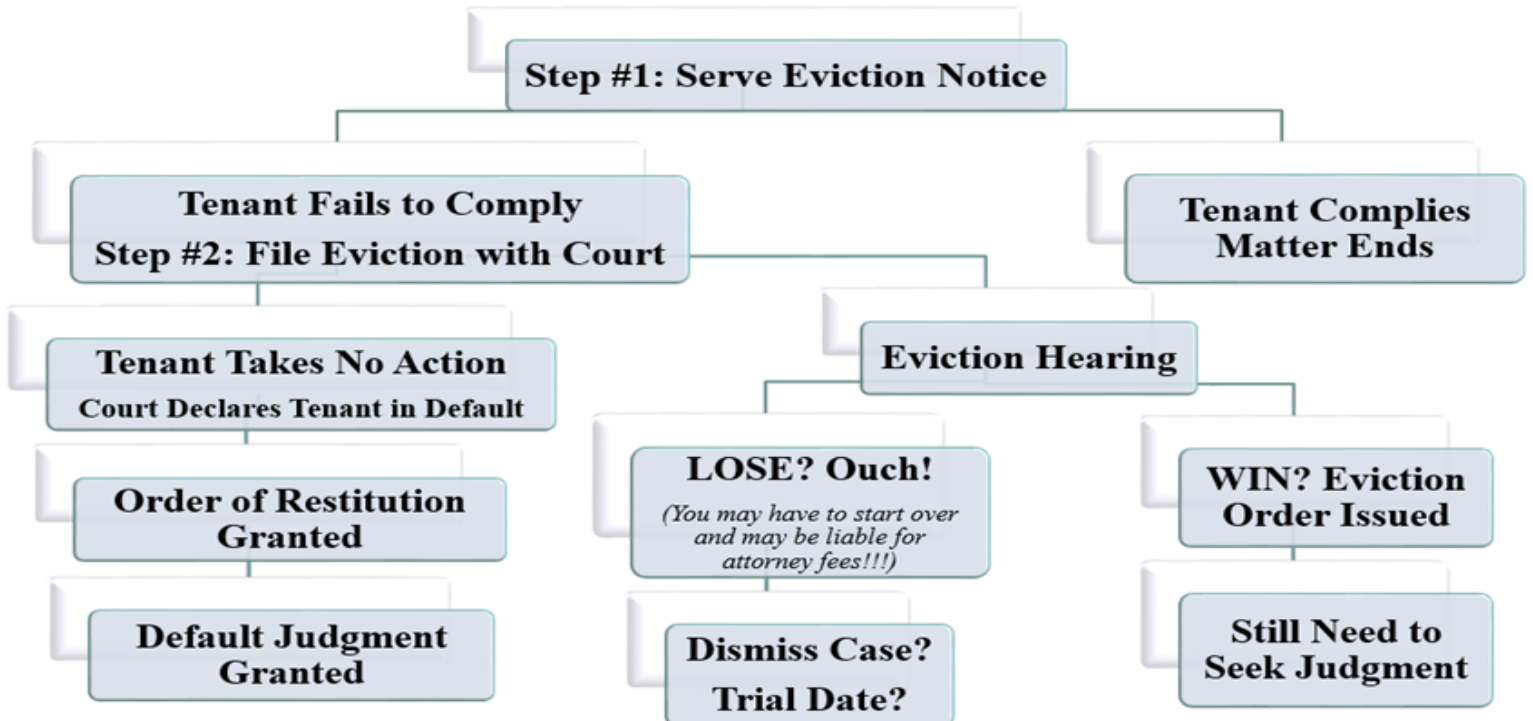
**Step #1: The Eviction Notice.** Depending on the violation you're dealing with, you need to start by giving an eviction notice. The notice is the foundation of your case, so make sure you're doing it properly. It should clearly notify the tenant why you're pursuing an eviction and what they need to do to comply with

the notice. If they're late on the rent, the pay or quit notice should list the amount they owe. If they're violating the lease, then outline those violations. You want to write your eviction notice so that the judge can read that one document and knows what your case is about. If they comply with the notice (sometimes by just moving out), then there's no need to file an eviction.

**Step #2: Filing an Eviction with the Court.** If the tenant fails to comply with the eviction notice, we can file the case with the court. Once they're served with the court papers, they have three business days to respond. If they fail to respond, then we request a

*(Continued on page 2)*

### Utah Eviction Law Flow Chart



“default” from the court which includes both an eviction order and a default judgment for what you’re owed. If they file an answer with the court to dispute the eviction, then we’ll move on to the next step.

**Step #3: Eviction Hearing.** Eviction hearings are usually only required if the tenant disputes the eviction. The dispute doesn’t need to be substantial either, even if the tenant files an answer that says “Yes, I’m late on the rent,” we still usually must go to a hearing with the judge. If we win at the hearing, the judge will issue an eviction order to set a move out date for the eviction. But, an eviction hearing is NOT a judgment hearing so it’s rare that you also get a judgment at this hearing. We may have to take other action to pursue a judgment for what you’re owed. If we lose at the hearing, we would need to reevaluate

the case and we may have to start over with a new eviction. However, we do our best to build a strong case from the beginning so it’s pretty rare that we lose once we go to an eviction hearing.

That’s the short and simple version of the eviction process. There are a lot of other issues that can come up in an eviction, but overall, our goal is to complete this process in 2-4 weeks from the time we file with the court until we have an eviction order signed by the judge. It’s important to involve an experienced attorney to help this process run as smoothly as possible.

*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.*

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

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



# Dear Attorney,

*We just did an inspection on our rental and we found excessive damage caused by the tenant which will likely exceed the security deposit. The lease doesn't expire for several months. What should we do?*

This is definitely a situation where you should have an attorney draft a clear stipulation for you. Under Utah law, tenants that cause damage to the property may be evicted, but it's usually best (for both sides) to try to work with your tenant. Even if the repairs can wait until after they have vacated the property, you can still get estimates and work with the tenant to pay an additional security deposit to help cover the actual costs of the damages when the repairs are made.

If the estimated damage is \$5,000, either (1) have the tenant pay that amount in full, or (2) consider a short-term payment plan to build up the \$5,000 in reserves. Make

sure your agreement is in writing and very clear, specifically that these payments ARE NOT rent, but they are an additional deposit to cover the damages.

Also, what if your current estimates are \$5,000, but the actual costs are \$6,000 when they start to do the work and find more problems? In a similar situation, if the actual costs are only \$3,000, then the tenant would be owed a refund for the difference. If they refuse to cooperate with handling the damages, you should take pictures, get bids or invoices, and then speak with us about possibly filing an eviction.

## Quick Tips of Security Deposits

- ✓ Require the initial payment (rent & deposit) to be paid via certified mail, online, 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 non-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

One quick and easy way to make a judge mad is to show up late to court. If there's a good reason and it only happens once, the judge is usually very understanding. But make sure it doesn't happen again.

On a virtual hearing in Moab, we appeared early for the hearing. We had requested an eviction order so that our client could be done with their problem tenants. At the time set for the hearing, the judge saw that our side was there and ready to go and called our case. The judge called our tenant's name to see if they were there, but no one answered.

After a few calls and still no answer from the tenant, the judge turned to us and said "the Defendant in this case usually shows up late in my courtroom so we'll give her a few more minutes to appear." Being a regular in the courtroom usually isn't a good thing (unless you're an attorney representing clients!). But it's even worse when the judge not only knows your name but knows that you are habitually late to your hearings! In the end, the judge was right and the tenant eventually showed up. We were also right and when our eviction was granted.

SUMMER



### 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 Google for "Utah Eviction Law").

★★★★★  
Google  
REVIEWS

**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