



Landlord Letter

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Changes in Utah Law — Security Deposits

Earlier this year the Utah Legislature made several significant changes to the laws concerning Security Deposits. In last month's issue we reviewed the general laws concerning security deposits. This month we will focus on these recent changes to the law.

Under the old law, the landlord had to provide an itemized report of any expenses charged against the deposit within the longer of (1) 30 days after the tenant vacates, or (2) 15 days after the tenant provides a forwarding address.

The new law requires the deposit closing statement be mailed to the tenant's last known address within 30 days (there is no longer a 15 day exten-

sion after a forwarding address is provided). The deposit closing statement must itemize any charges and, if anything is remaining, refund the unused portion of the security deposit.



The most significant change limits the claims or penalties that a tenant may seek from a landlord who fails to comply with these provisions. Under the old law, a landlord that acted in bad faith and failed to comply with the law could be forced to refund the entire deposit plus a \$100.00 civil penalty. Under the new law, if the landlord fails to comply with these provisions, the tenant must provide

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Evictions in Weeks, Not Months!

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Courtroom Chronicles

Attorney fees are required to be granted by the judge in a successful eviction. Recently we were attending an eviction hearing for a client. While waiting for our case to be called, a commercial eviction case was called that had already gone through a full trial. As the successful party, the landlord's attorney was requesting their attorney fees — a whopping \$31,000.00. I wondered whether the landlord's attorney did not focus solely on evictions, leading to overspending on the case. The tenant's attorney (and the judge) were equally concerned about the fees requested.



When our case was called, we reported to the judge the grounds for our eviction and requested attorney fees, which the landlord was clearly entitled to. When the judge asked how much in attorney fees we were requesting, we told the judge what our fees were, which were only a few hundred dollars at that point. As the judge was quietly considering his options, I stated "We'd be happy with \$31,000 since that's what you were going to give the last guy." The judge chuckled and granted our eviction, but without the \$31,000.00 in attorney fees.

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the landlord with a written notice entitled "Tenant's Notice to Provide Deposit Disposition." This notice claims the deposit has not been properly accounted for and requires the landlord to comply with the law within five days. Also, this written notice must be served on the landlord in the exact same manner in which eviction notices are served. The notice cannot be given verbally, via text, email, etc. If the tenant fails to comply with these provisions, they cannot recover their entire deposit or the \$100 civil penalty. If the landlord fails to provide the written itemized deposit statement within five days, the tenant can recover their entire deposit, a civil penalty of \$100 plus attorney fees and costs.

This change in the law requiring written notice effectively eliminates a surprise attack by a tenant for a security deposit. Since it requires written notice and a five day opportunity to cure by the landlord, most landlords will make their best efforts in order to be fair with deposits in order to avoid a potential lawsuit.

However, this does not mean that the landlord should ignore legitimate charges against the deposit. Under the law, a landlord can charge the following items against the deposit "rent, damages to the premises beyond reasonable wear and tear, other costs and fees provided for in the contract, or cleaning of the unit." See [Utah Code Ann. §57-17-3](#).

Our recommendation to clients is to make sure that every time a tenant moves the landlord is providing a detailed and itemized deposit report to the last known address. If a forwarding address is not provided, this means that the landlord is providing the statement to the address where the tenant just vacated. It is better to do this in order to comply with the law, even knowing that some tenants will never see the deposit closing statement.

Feel free to use our free Deposit Closing Statement from our website (<http://www.utahevictionlaw.com/contractforms.html>). To read the specific statutes addressed in this article, they can be found in Utah Code Ann. [§57-17-3](#) & [§57-17-5](#).

Jeremy Shorts

Dear Attorney,

Q:

My tenant's girlfriend moved in and refuses to leave. Can I just call the police and have her removed?

A:

Unfortunately, if the girlfriend refuses to leave voluntarily you will most likely need to go through the regular eviction process. You will need to first serve your tenant and/or the girlfriend with eviction notices requiring them to come into compliance with the lease or vacate.

Keep in mind that you'll need to make sure that each person (your tenant AND the girlfriend) need to be each served their own notices. The tenant is probably in violation of the lease (3 day notices), while the girlfriend is a tenant at will (5 day tenant at will). If they don't comply, you'll need to file an eviction with the court.



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When black cats prowl & pumpkins gleam, May luck be yours on Halloween.



yours on Halloween.

-Author Unknown

Know Your Notice

•Three Day Notice for Criminal Acts•

Purpose: Allows landlords to evict where their tenants have committed crimes on the property.

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

Use this notice if your tenants have committed criminal action on the property that cause risk of health, sanitation, or damage to your property, other tenants or neighbors.

Based on the seriousness of the actions, the tenant may not have an opportunity to cure the problems. They must vacate the property in 3 days or they will be guilty of unlawful detainer.

This can become a he said she said battle, so document any criminal acts. Witnesses and/or police reports are critical in proving the grounds for eviction.

DOs & DON'Ts of...

Security Deposit Refunds



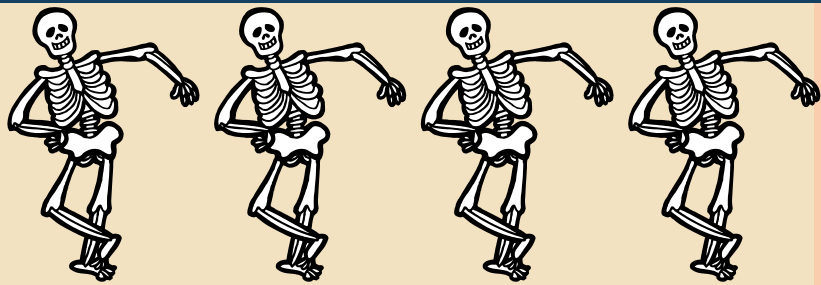
DO

- Track all expenses with documentation and pictures.
- Send our free Deposit Closing Statement within 30 days of the tenant moving.
- Charge legitimate costs and expenses against the deposit (rent, damages, or other amounts allowed under the lease).



DON'T

- DON'T keep the deposit without sufficient legal grounds.
- DON'T forget to keep a copy of the Deposit Closing Statement for your file.
- DON'T make decisions with a deposit based on emotion or a dislike of the tenant. Assume you will have to explain any charges to a judge.



Are your tenants making you dance?
Not sure if you should evict them?

Our attorneys offer a **FREE** 15 minute
Landlord consultation.



Contact us at:

Phone: 801-610-9879

Email: info@utaheviictionlaw.com

We will pay your \$75 filing fee for any regular priced
eviction filed by 10.31.14. **Refer Code:** LL-102014

Halloween Fast Facts



The first Jack O'Lanterns were actually made from turnips.



Halloween is the 2nd highest grossing holiday after Christmas.



Samhainophobia is the fear of Halloween.



Boston, Massachusetts, holds the record for the most Jack O'Lanterns lit at once.



The next full moon on Halloween won't occur until 2020.



Halloween is also called: All Hallows Eve, Witches Night and Summer's End.

Calendar of Events

- October 13 — Columbus Day
- October 28 — UAA's Ogden Membership Meeting
- October 29 — UAA's Orem Membership Meeting
- October 30 — UAA's SLC Membership Meeting
- October 31—Halloween



Parting Thoughts

- We're working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email at info@utaheviictionlaw.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/utaheviictionlaw).
- You can also give us a Five Star Google Review (search "Utah Eviction Law Reviews" and click on our link).

