



Landlord Letter

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What Amounts are Included in a Judgment?

We often get phone calls and questions about the different items that landlords can claim in a judgment during an eviction. While the typical judgment includes past due rent and late fees, Utah law also requires a judgment to include “treble damages” as well as attorney fees and costs.

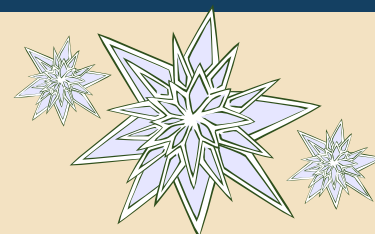
Utah law (Utah Code Ann. §78B-6-811(3)) clearly separates rent from treble damages, stating that a landlord is entitled to a judgment for “rent, for three times the amount of damages assessed under Subsections (2)(a) through (2)(e), and for reasonable attorney

If you want to get a judgment against your tenant, call us and we can help!

fees”. Those are listed as three separate damage calculations. This subsection along with Subsection (2)(d) requires the “amounts due under the contract” to be tripled. This often leads to substantial judgments in eviction cases, which helps to cover any costs associated with collection.

While rare (because collections can be difficult), we have had several cases where once the entire judgment is collected the landlord is able to recover all of their lost rent, late fees as well as the attorney fees and costs, plus a little bit

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Evictions in Weeks, Not Months!

Courtroom Chronicles

We recently had a case where the tenant claimed the landlord didn't properly serve the eviction notice. An improperly served notice can get your eviction dismissed. The tenant's attorney emailed a picture of the notice, it was obvious that this notice was not properly served. The notice was hidden behind some holiday decorations and was not very visible. We contacted our client and asked if she had pictures showing how she posted the notice. She gave us two pictures that showed the notice posted in plain view on top of the decorations that were on the front door. It was obvious that the no-



tice was posted properly, but the tenant pulled the decorations down to hide the notice in order to stage the picture for the judge.

When we got to court, the attorney explained to the judge they had a picture of the improper posting. We responded by stating we had two pictures that obviously showed (1) that the notice was posted correctly, and (2) the tenant had staged her picture after the fact.

We expected and were prepared for a fight, but after seeing the pictures the judge didn't even call any witnesses. He gave us our eviction order without any other questions.

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more once these treble damages are included.

Another question focuses on whether a landlord can claim future lost rent. In general, landlords are entitled to future lost rent after the tenant vacates the property (1) until the lease expires, so long as (2) the landlord is making reasonable efforts to get the property re-rented. A landlord cannot collect double rent. Once a new tenant moves into the property and begins to pay rent, any amounts received from the new tenant would offset any claim against the old tenant for future lost rent. However, if the new lease with the new tenant is for less rent (i.e. the old lease listed rents at \$1,500 but the new tenant's lease was signed in the middle of winter for reduced \$1,300 rent), the landlord could claim that \$200 monthly loss through the remaining term of the lease.

When claim in lost future rent, one significant question any judge will ask is what efforts the landlord has taken to "mitigate" their damage. The landlord cannot sit back and continue to collect rent on a vacant property, he/she has an affirmative duty to make reasonable efforts to limit their damages. The judge will likely ask about the efforts made to locate a new tenant. If a new tenant is located but for a reduced rent, the judge will likely ask questions to determine whether it was reasonable to accept a reduced rent. For example, many landlords try to end their leases in the summers because that is a great time to find good tenants. Being forced to sign a lease in winter may limit choices for good tenants.

One of the best tools to maximize your judgment amount is to use a good lease and maintain good records. Most tenants don't end in an eviction or a judgment, but good landlords always assume that they'll have to explain their situation to a judge.

Know Your Notice

• An Overview of Utah Eviction Notices •

Purpose: To begin the eviction process

Three Day Pay or Quit: Written notice requiring the tenant to either vacate or pay all past due rent, late fees or other amounts owed under the lease.

Lease Violations: Used to give written notice to the tenant of any ways they are violating the lease.

Lease Termination: This notice terminates the lease. Must be served at least 15 days prior to the end of the month, unless your lease requires more time.

Nuisance: Used where your tenant's actions have interfered with the quiet enjoyment of property from other tenants and/or neighbors.

Tenant At Will: Be cautious with this notice. It is used when the individual does not have any lease (written or oral) to live in the property.

Criminal Acts: A tenant who commits crimes that impact the property are subject to eviction.

Unlawful Business: A tenant that is breaking the law by running a business may also be evicted.

Assigning or Subletting: If your tenant assigns or subleases your property in violation of your lease, they can be evicted.

Waste (Damages): A tenant that damages your property is subject to a three day eviction notice.

Abandonment: Is presumed where a tenant leaves without notifying the landlord, is late on the rent, and there is no evidence they're living there.



Dear Attorney,



Q:

Up until last month, my tenants always paid on time. They've missed a couple of payments now, but should I jump right in to serving an eviction notice?

A:

Often landlords feel that they don't want to be rude or threaten litigation when a tenant has, for the most part, been a good tenant. Serving the notice may seem harsh and they want to avoid it. However, it is best practice to serve the eviction notice, even if you know you are going to

be flexible with them on coming up with the funds and a move-out date. The eviction notice doesn't lock you into anything, but what it does do is send a strong message that you will hold the tenant to their obligations. By sending this message early on, before the balance gets out of hand, it lets them know you expect them to comply with the lease.

I have a dream that my four little children will one day live in a nation where they will not be judged by the color of their skin, but by the content of their character.

~Martin Luther King, Jr.



DOs & DON'Ts of... Courtroom Etiquette



- Do come to court on time and well prepared.
- Do dress professionally. (For example, no jeans, hats, tank tops, flip flops, etc.)
- Do be respectful to all court staff, including clerks, bailiffs and other patrons.
- Don't disrespect the judge or interrupt the judge while they are talking.
- Don't be disrespectful to the opposing party or opposing counsel in the courtroom.
- Don't leave your cell phone or send text messages in court.

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Evictions in **THREE** Steps



Step #1: Eviction Notice – First give your tenant a notice of evicton. Visit www.utahevictionlaw.com for a list of notices.



Step #2: Filing the Eviction & Default – If the tenant fails to comply with Step #1, next step is to file the eviction. As long as the tenants don't fight the eviction, we will file default papers. We will receive 1) Judgment and 2) Eviction Order.



Step #3: Eviction Hearing – An eviction hearing is **ONLY** needed if the tenant fights the eviction with the court in Step #2



Calendar of Events



- January 1 – New Year's Day
- January 19 – Martin Luther King Jr. Day
- January 27 – UAA's Ogden Membership Meeting
- January 28 – UAA's Committee Day
- January 28 – UAA's Orem Membership Meeting
- January 29 – UAA's SLC Membership Meeting



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 it to 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 "Utah Eviction Law Reviews" and click on our link).