



Landlord Letter

December 2016

Eviction Myths — “Baby, it’s Cold Outside”

Now that our Indian Summer is over and we’re actually getting into some colder weather, we thought this would be a good time to dispel some eviction myths and talk about some practical advice that can help with evictions during this time of the year.

Have you ever heard a tenant state *“It’s too cold to evict us during the winter months, you have to give us until spring when it’s warmer.”* There is nothing stated in Utah’s eviction laws that restrict evictions during any time of the year. This means that weather (including winter), holidays, etc. are not explicit reasons under Utah law to delay or avoid an eviction. The statute does grant the judge the discretion to modify the move out

date as they see fit. So even though the statute doesn’t specifically refer to cold weather, in some circumstances (extreme cold or severe snow storm) the judge may grant a small extension.

Having said that, the practical approach is for landlords and tenants to each take small steps to try to make evictions a little bit less difficult. If the tenant will agree to a repayment plan, that often gives us flexibility to grant a few extra days for them to move. If that

extra time comes over a weekend, that not only allows them more time to prepare, but more time to organize help moving which is usually more available over the weekend. Also, if a large snowstorm hits the day they’re

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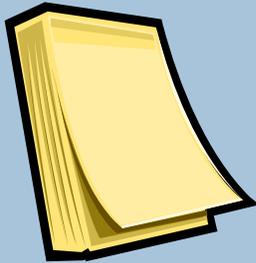


Know Your Notice

• Abandoned Personal Property •

Purpose: Properly handles personal property left behind by a tenant .

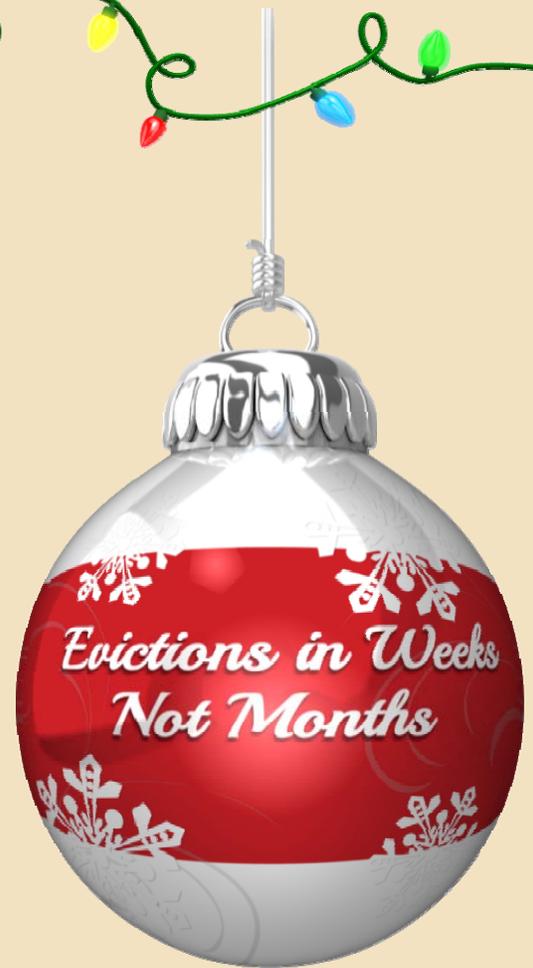
This is a recent change under Utah law when handling abandoned personal property.



Instead of storing items for 30 days, the law requires the landlord to store the items for 15 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 5 days prior to the sale.

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



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supposed to move but you can see they're actively trying to work through it, a small extension can make a big difference.

Another one you may have heard is "We have several very young kids to be evicted quickly – you have to give us extra time." Similar to the first myth concerning winter weather, there is nothing within Utah's eviction statutes that grants additional time or restricts evictions based on the number or age of children in the home. BUT – The same statutory discretion would apply to allow the judge to consider these factors as they make a decision. Across the board judges will largely grant the standard three day eviction order,

but in extenuating circumstances something else may be a better option. In one case, the tenant wrote to the judge that she was a single mother with six young children at home. The interesting thing was that our client had received a report that DCFS has removed the children 1-2 months prior. At the hearing the tenant didn't show but the judge decided to allow a few extra days for the tenant to vacate.

Many of these types of arguments are considered myths because they're simply not 100% true. Yes, in certain extenuating circumstances a judge may grant the tenant additional time, but often times it's best for the landlord to work with the tenant, especially if the tenant is willing to work with the landlord.

Attorney Jeremy Shorts

DOs & DON'Ts of... Terminating a Lease



DO

- Get your agreement in writing.
- Be detailed — Outline all critical points.
- Have your tenant agree to cooperate with showings for a new tenant.



DON'T

- Refund the deposit until after you've inspected the property.
- Wait until AFTER they're out to start finding a new tenant.
- Forget to discuss handling rent through the termination date.



Dear Attorney,

Q:

My case is going to an eviction hearing, should I have my attorney negotiate with my tenant or just take the case in front of the Judge?

A:

It is almost always a good idea to at least have a discussion with the tenant before you talk to the judge. One reason is that most judges (if not all) really appreciate if the parties will make an attempt to resolve the issues without the court needing to make the decision for them.

Often your tenant may surprise you and is willing to agree to a move out date as well as an agreement to pay what is owed. It is not uncommon for us to leave the eviction hearing with the tenant thanking us, even though we obtained a move out date and a judgment against them with the court. This is because many times the parties are not as far apart on the issues as it initially seems. If you can get the tenant to agree on a move out date that you are comfortable with, you can often get the entire case resolved at the eviction hearing without needing to go back to the court.

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Bottom line – You should always plan on speaking with your tenant unless you're in the very small class of cases that it simply isn't beneficial.



*Merry
Christmas!*

from Utah Eviction Law

Calendar of Events

- December 7 — Pearl Harbor Day
- December 17 — UAA Multi-City Good Landlord Class
- December 22—Winter Solstice
- December 24 — Christmas Eve
- December 25 — Christmas Day
- December 31 — New Year's Eve



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