



Landlord Letter

August 2017

What Every Landlord Should Know About Utah's Fit Premises Act

Utah's laws are focused on defining what obligations landlords and tenants have to one another. Utah's Fit Premises Act ("FPA", Utah Code Ann. § 57-22-1, *et. seq.*) sets forth those obligations as they relate to the condition of the property. Here are three things that every Utah landlord should know about the FPA.

First – There are two prongs before the FPA even applies. First, the issue must "affect the physical health or safety of the ordinary renter". Second, the tenant cannot claim protection under the FPA unless they are in compliance with their obligations under Utah law and the lease. If either of those prongs are not met, the FPA doesn't apply.

Second – If the FPA applies, the tenant must

serve a "Notice of Deficient Conditions" that gives the landlord time to address the issue (types of issues and the corrective timeframes are discussed below). The notice has to be in writing, satisfy all of the requirements in the statute, and must be

served to the landlord in the same manner a landlord would serve an eviction notice to the tenant (personal service, posted service, etc.).

Third – There are three types of conditions that are addressed in the FPA: (1) dangerous conditions that pose a substantial risk of imminent loss of life or significant physical harm, (2) deficient conditions that impact health or safety concerning the habitability of the home, or (3) obligations stated in the lease agreement.



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If a dangerous condition exists, the landlord should begin remedial action within 24 hours. Deficient conditions require the landlord to take substantial action toward correcting the condition within three calendar days. And for conditions under the lease, the landlord has ten calendar days to take substantial action toward correcting the issue.

Notice that these timeframes are not 24 hours, three days or ten days to COMPLETE the corrective action. The landlord has those timeframes to begin or take substantial action toward correcting the issue. Having said that, it's best to not litigate whether substantial action was taken, so it's best practice to do what is possible to correct the issue ASAP. If the problem was eliminated within the corrective timeframes, then there is nothing for the court to consider.

Fourth – A tenant cannot withhold rent or shirk their responsibilities under the law or the lease un-

til AFTER all of these conditions have been met. In summary, the issue the tenant is complaining about must impact the physical health or safety of the ordinary renter, they must be in compliance with all of their obligations (by statute and the lease), they must serve a notice of deficient conditions, and allow the landlord the proper time to correct the issue. If each of these occur and the landlord fails or refuses to correct the issue, then the tenant is protected under the FPA.

Finally – As a practical matter, even if the tenant is not in compliance with the lease or Utah law, it is best practice to treat all requests professionally and promptly. As your attorneys, we would rather go into court stating “This isn't an issue of health or safety and the tenant wasn't in compliance with the lease, but the landlord still took action to comply with the FPA”. Taking this approach creates credibility with the court and builds a stronger case if we end up in front of the judge.

Attorney Jeremy Shorts



DOs & DON'Ts

Changing the Locks



DO

- Make sure the property is vacant, unless you have a court order.
- Get written confirmation from your tenant that they have vacated.
- Change the locks, even if your tenant voluntarily left, and left you a key.

DON'T

- Assume they have vacated when there are still personal items in the property.
- Change the locks without a court order or confirmation they have vacated.
- Throw away personal items without first following Utah law regarding abandonment.



Dear Attorney,

Q: *The Judge signed an eviction order at the eviction hearing, but I am still owed money. What do I do now?*

A: The next step will be to assess the property to confirm any other amounts owed (cleaning, repairs, etc.). Keep track of receipts, invoices, estimates, etc. to prove the final total of what is owed to you (including rents, late fees, attorney fees, etc.).

Within 30 days after they leave, mail a deposit closing statement to their last known address (which will be your home if they didn't provide a forwarding address).

Once you have a final balance owed, typically the next step will be to file a motion for summary judgment with the court that includes the additional costs incurred post-move out. The motion will ask the court for a judgment amount to be entered. The Court will consider the motion and if approved, the judge will sign off on the judgment amount that you are owed. Once the court enters the judgment amount, you can start collecting on the amount owed via wage garnishments, tax garnishments, etc.

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

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

Nuisance: Used where your tenant's actions have interfered with the quiet enjoyment of property from

Tenant At Will: Be cautious with this notice. It is used when the individual does not have any lease

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,

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,

Courtroom Chronicles

After one tenant, who was a law school graduate, received an eviction notice, he contacted our office to state “You won’t be able to evict me, I helped write the Utah Renter’s Handbook.” We responded, “Eh, we’ll give it a shot.”

He did everything possible to avoid being evicted – We had to file a motion for alternative service based on his attempts to avoid us because he would only peep through the window at our process server. When the judge allowed us to post the court papers on the door, he responded by filing a 20 page motion to dismiss followed by 90 pages of exhibits.

When we were able finally get the case to court, it was obvious to the judge that the tenant was just playing games. All of his antics backfired when the judge granted our eviction order without even having to call any witnesses.

Not only were we able to evict this claimed author of the Utah Renter’s Handbook, but even with all of his delays it took 3 ½ weeks and resulted in a substantial judgment amount. After he was out, he then appealed the case – TWICE! But the Utah Court of Appeals also saw through his case and decided in our favor as well.

Calendar of Events



- August 6 – Friendship Day
- August 10 – UAA’s Ogden Good Landlord Class
- August 25 – UAA’s Multi City Good Landlord Training Class

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 “Jeremy Shorts Reviews” and click on our link).

Evictions in Weeks, Not Months!