



Landlord Letter

June 2018

Abandoned Personal Property

What do I do if my tenant left personal items behind? That's a regular question we get from clients. Let's walk through (1) what the law requires, and (2) when a practical approach might be better than the law.

First, once a tenant has abandoned the property, Utah law allows the landlord to re-take possession to get it re-rented. You should put together a detailed inventory of what items were left behind. Although not required by law, one of the best ways to take an inventory is to take pictures of EVERYTHING (inside cabinets/drawers, etc.). This is to avoid the tenant claiming that something was missing or that you damaged any of their

property.

Any items that are left behind can be removed and stored for 15 days. To begin the storage period, the landlord should mail and post a written notice to the tenant stating that the items are being stored for 15 days (we have a free "Notice of Abandoned Personal Property" on our website – www.utahevictionlaw.com). The tenant is responsible to pay for any removal and storage fees.

Also under Utah law, the landlord is NOT required to store certain items (i.e. chemicals, dangerous or other hazardous materials, ani-

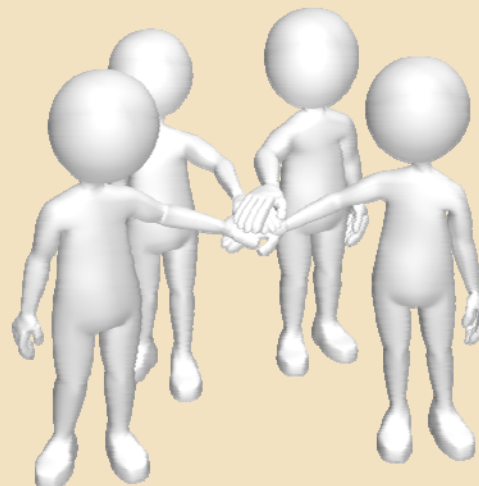
(Continued on page 2)



What people are saying about US!!!

“What a great experience!!! They are connected with the courts and are notified after each action. I was able to get the place rented four to five days earlier than if I handled the eviction.”

~D.W. Salt Lake City, Utah



(Continued from page 1)

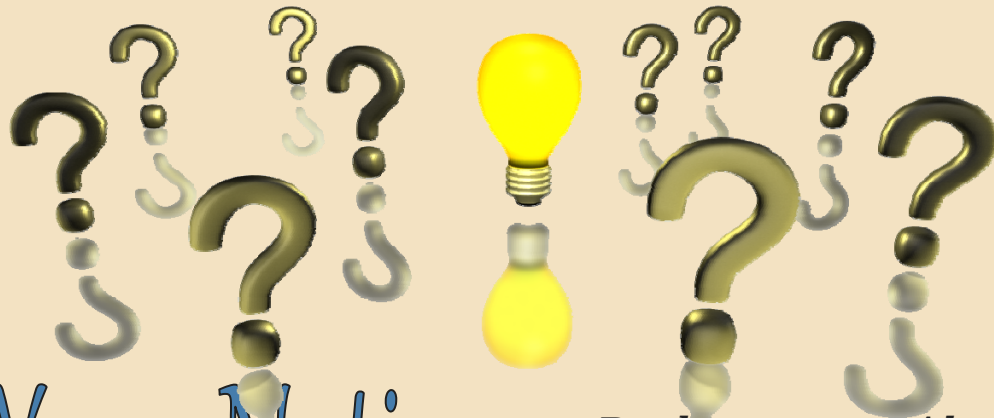
mals, garbage, perishable items, etc.). These items may immediately be disposed of but do so under the law (call animal control for animals).

If the 15 day storage period has expired and the tenant fails to retrieve their items, you may then either (1) sell, (2) donate, or (3) junk what they left behind. If anything is sold, the tenant should be given a notice of the sale at least 5 days before the sale occurs.

These are the main points of the law, but you should also Google “Utah Code Ann 78B-6-816” and read the statute. It’s very detailed and clear in what is required.

Second, now you know what Utah law is, let’s talk about a practical solution that is often better than what the law requires. You must follow Utah law before you dispose of their property, but you may want to consider waiving the removal and storage fees if the tenant will simply retrieve their items. Following the statute and handling their items can take time and effort and the items they’ve left behind are usually not valuable. Working with your tenant to let them get their items is often better than having to go through the legal requirements. It’s often easier than following the law, and it works out better for both landlord and tenant.

Attorney Jeremy Shorts



Know Your Notice

- *Declaration of Abandonment* •
- Purpose:** Assists the landlord in re-taking possession when a tenant has abandoned the property.

The Declaration of Abandonment serves two purposes: (1) it declares the real property abandoned before the landlord re-takes possession, and (2) sets up the sale/donation of any abandoned personal property the tenant left behind.

Once the 15 days has expired, the landlord may sell/donate the items. However, the landlord must give written notice of the sale at least five (5) days before the sale.

There is no notice requirement in order to declare a property abandoned, but prior to selling or disposing of any personal property the landlord must give a Declaration of Abandonment and store the items for a minimum of 15 days.

Be cautious... A Declaration of Abandonment is a necessary and useful tool, but if a judge later determines the property was NOT abandoned, the landlord may be responsible for treble damages.

Dear Attorney,

Q: *I haven't heard from my tenant and they're late on the rent. Can I change the locks and get it re-rented?*

A: Most legal answers are "It depends." But the new abandonment statute that we addressed last month gives some guidance. First, if the tenant has not told you they will be absent from the property, are late on rent, and there is no reasonable evidence that they are residing there, then the property is presumed to be abandoned and you may be able to change the locks.

If you want to go one step further, once the presumption is met you can also give a 24 hour Declaration of Abandonment

stating the basis for your presumption and giving 24 hours to rebut the notice. If they don't respond within 24 hours, you can change the locks and store any left-over items for 15 days.

Despite the new language of the statute that provides additional protection to a landlord when dealing with an abandonment issue, you should still be cautious. Do what you can to communicate with your client, and document your attempts to contact them. Even with a potential abandonment, it may be in your best interest to pursue an eviction through the courts so you are changing the locks with the judge's permission.



Quick Tips to Ask When Hiring an Attorney

Ask these questions BEFORE you tell an attorney about your case.

- ✓ What is your specialty? (You want to hire an expert in that field!)
- ✓ How many cases like mine have you handled in the last month?
- ✓ What professional groups or associations are you involved in?

If you don't feel comfortable hiring them, then move on and call someone else!

Courtroom Chronicles

We were recently in trial based on an eviction notice because of damage that the tenant had caused. Our client appeared in court and not only testified of the damage, but had several pictures showing the damage (pictures are worth a thousand words).

After we had presented our case, it's now the tenant's turn. This is where the opposing attorney gets to question, discredit, deny, or disprove our case. The tenant's attorney wanted to make sure that the judge knew his client did not damage the property. To prove this, he went through the pictures we pro-

vided and asked the tenant (his client) to explain the pictures. I'm sure he expected the tenant to state that the damage existed before or that he didn't cause the damage. Unfortunately for the attorney, instead of denying that he caused the damage, the tenant explained that he caused the damage but planned on fixing it. Based on these admissions, the judge had no choice but to agree with our position that the tenant had caused damage to the property and granted the eviction in our favor.

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.
- 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 Utah Reviews" click on our link).

Contact us for a **FREE** Landlord Consultation!

Phone: 801-610-9879

Email: info@utahevictionlaw.com

Web: www.utahevictionlaw.com

