



# Landlord Letter

## November 2018

### **Fair Housing – New Laws**

We consistently get calls asking questions about Fair Housing issues, the most common issue relates to how to treat emotional support animals (“ESA”). Landlords commonly have a “No Pet Policy”, but after a tenant moves in they may notify the landlord that they have an emotional support animal. To avoid a complaint for discrimination, it’s important to know how to handle these situations.

As an initial point – You need to know that if a tenant has a legitimate ESA, it is NOT a pet. You cannot charge any pet rent or a pet deposit. You should think of it as the tenant having a wheelchair.

How do you determine whether a

tenant has a legitimate ESA? There are two main questions that determine an ESA. First – Is the tenant disabled? Second – Does the animal assist the tenant to overcome the challenges associated with the disability? That is pretty much it – If the tenant is disabled and the animal helps the tenant to overcome the disability, then it’s probably a legitimate ESA.

Under fair housing laws, a “disability” is defined as “a physical or mental impairment that substantially limits one or more major life activities....” Certain disabilities are known and obvious (i.e. blindness, physical disabilities,

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**What people are saying about US!!!**

**Utah Eviction Law** - Everyone I've worked with at Utah Eviction Law is professional and courteous and generous with their time. They are always quick to answer or return my call, and are glad to answer whatever questions I might have about the legal process; regardless of whether or not they're currently handling an eviction case for me.

*~M.S. Salt Lake City—Google Review*

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etc.), but other disabilities might be hidden (i.e. depression, anxiety, etc.).

Even if a tenant has a disability, it does NOT give them the ability to get an animal. There has to be a nexus, or link, between the disability and the help that the animal provides to the tenant. Without that nexus, there is no ESA.

If the disability is not obvious, you can request “reliable documentation” in order to verify that the person is disabled (not what the disability is). That typically comes in the form of a doctor’s note that states whether the tenant is disabled and whether the animal assists them with their disability.

If the tenant shows they have a valid ESA, you have to change your No Pet Policy to allow the ESA, but you can still impose reasonable rules that are applicable for ALL animals (i.e. tenant has to clean up after animals, keep on leash in

common areas, etc.) and you can still evict a tenant with an ESA if they fail to control the animal (i.e. noise, nuisance, damages, etc.). Again, you cannot charge pet rent, pet deposits, or pet fees – an ESA is NOT a pet.

*Attorney Jeremy Shorts*



## DOs & DON'Ts Inspections

- ✓ Communicate with your tenants and give them 24 hours notice.
- ✓ Take pictures to verify anything that you see or need to work on.

- ✗ Show up unannounced.
- ✗ Over-inspect – Your tenant is entitled to quiet enjoyment of the property.

# Know Your Notice

## • Five Day Tenant At Will Notice •

**Purpose:** Give a squatter notice that they don't have a lease and must leave.



*A Tenant at Will Notice gives the tenant five calendar days to vacate the property.*



*Even without a written lease, a tenant might not be a tenant at will if the landlord has given verbal permission for the tenant to live there.*

*The only option for a tenant to comply with a Tenant at Will Notice is to vacate the property. There is no other cure.*

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

## Dear Attorney,



***I have a judgment against my tenant, but unsure of their employment or banking information for a garnishment. Do I have any options to collect?***

The quick answer is – Hopefully. The two most common methods of collections are to either garnish a debtor's wages or a bank account. If you have that information then you might have a head-start on collecting. If not, there are still a few other options to collect.

If you don't have any leads on collections, there are several background checks we can perform to try to locate information that is helpful for collections. If those searches aren't helpful, we can set up a "Supplemental Order Hearing"

where the tenant is legally obligated to appear in court and answer financial questions under oath.

They have to disclose any income or assets they have, which can be used for collection. In addition, while at a hearing with the tenant it might be beneficial to attempt to set up a voluntary payment plan with the tenant.

Depending on what information you receive at the hearing, you may have other options to try to collect on the judgment you have.



## Landlord Laughs

Tenants can say the darndest things sometimes. We recently had a case where the dogs from two tenants got into a fight and there was a dispute of which dog was the aggressor. It was the classic dog version of “Who done it”.

In talking to one of the tenants they were VERY adamant that their dog (we’ll call her “Angel”) was brutally attacked by the other dog. In fact, the tenant went on and on about how Angel was perfect and doesn’t bite anything. Angel doesn’t even like things in her mouth, so there’s no way Angel would have been the aggressor.

The tenant was in the middle of trying to convince us how much of an angel that Angel was when they said “There is no way that Angel would do something like...” and then the tenant yelled “HEY! DON’T EAT HIS SHOES!!!” But then paused because they just realized that maybe Angel wasn’t so angelic. They quickly tried to cover it up with “She was just licking the shoes.” Yeah, right.

### 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](mailto: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](http://www.facebook.com/utahevictionlaw)).
- You can also give us a Five Star Google Review (search “Utah Eviction Law Google Reviews” and click on our link).

