



Landlord Letter

June 2019

Keys of a Strong Lease Agreement

One of the best things landlords and tenants can do to protect themselves is to have a good lease that outlines the landlord/tenant relationship with their residents. It's impossible to have a lease that would cover every issue that may come up, but there are several key provisions that should be in any lease. Let's talk about a few of those critical provisions.

This may seem obvious, but we see several cases that need to understand this – Make sure you have a **WRITTEN lease**. Under Utah law, a verbal lease is usually just as enforceable as a written lease. The difference is it is much easier for problems to arise with a verbal lease, and it's much more difficult for a judge to decide issues that come up involving a verbal lease.

An "**Integration Clause**" specifically states something to this effect: "This lease constitutes the entire agreement between the parties hereto and no additions or changes shall be binding unless in writing and signed by both parties." Many of our cases involve some situation where the tenant is trying to enforce a verbal discussion with the landlord. This is a dangerous situation because it attempts to undermine the written lease and create a verbal agreement. However, a lease with an Integration Clause means that these discussions and even verbal agreements are not enforceable unless it is in writing and signed by all parties. This provision alone limits the possibility of a

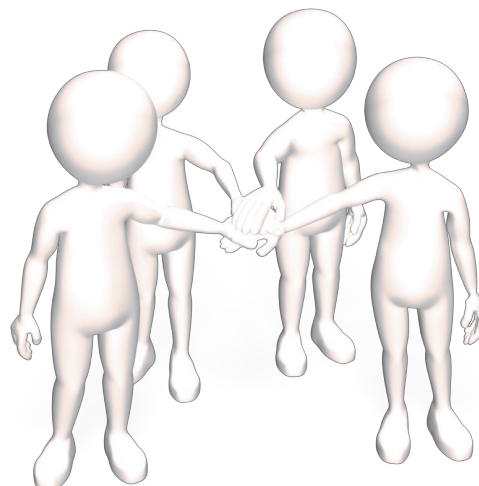
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What people are saying about US!!!

"Jeremy was so helpful. I can't believe how easy it was to work with them. Highly recommended. ."

~E.B.—Google Review



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dispute and focuses on what is stated in the written lease.

Under “**Joint & Several Liability**”, if multiple parties sign the lease as a responsible party, then each of those individuals are fully responsible to comply with the lease. For example, if three separate tenants sign the lease and then two of them lose their jobs, the remaining tenant is 100% responsible for payments owed under the lease. This means that the landlord doesn’t have to pursue each tenant for a 1/3rd share, but that each of the tenants are individually and fully responsible for the lease.

Also, make sure you have an **Attorney Fees Provision**. Under Utah law, you can claim attorneys fees in two situations: if you have a (1)

contract or (2) statute that allows for attorney fees. If you end up filing an eviction, the eviction statutes allow for attorney fees. But apart from an eviction, you need to rely on your lease agreement if you intend to claim attorney fees.

Finally, we recommend that you provide a copy to the tenant early and sit down with the tenant to review the terms of the lease and allow the tenant to ask questions. Make sure the tenant clearly understands what they are agreeing to and who to contact if there are problems. This simple practice takes time and may seem unnecessary up front, but it can help to avoid headaches (and lawsuits) down the road.

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.

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.

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.



Dear Attorney,

Q: *My tenant is causing a lot of problems but I don't know whether they are serious enough to evict them. What exactly is a nuisance?*

A: Utah statutes define a nuisance as follows: "...anything which is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property." Utah Code Ann. 78B-6-1101(1). In short terms, it's when a tenant is being a big enough pain in the neck that they're significantly bothering other tenants or neighbors.

You will want to be cautious about pursuing a nuisance eviction. They can be tricky to prove, and different judges could decide nuisance cases differently. What is a nuisance to one judge might not be a nuisance to another judge. It's best to be thor-

ough and give the tenant the benefit of the doubt. But if they aren't cooperating and their actions are interfering with the quiet enjoyment of other tenants or neighbors, you should consider a nuisance eviction. Make sure you have enough evidence to prove your case (pictures, videos, witnesses, etc.).



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!

Landlord Laughs



Emotional support animals are usually dogs or cats. Since I'm allergic to cats I'm not personally fond of them. I jokingly say in fair housing trainings – How can an emotionless animal provide emotional support?!?

Have you seen some of the strange assistance animal stories recently? They don't have to be a cat or a dog, there are other options. Someone tried to take an emotional support turkey on a flight (I hope its neighbors have some really good noise cancelling headphones). Another passenger tried to take an emotional support peacock on a plane, but was denied (you'd need four tickets for the tail!).

Most people think that ESA refers to "Emotional Support Animal," but a Pennsylvania man has Wally, his Emotional Support Alligator. That one might take the cake (or an arm).

Parting Thoughts

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- 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

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