



Landlord Letter

October 2019

Pets & Emotional Support Animals

“It’s not a pet, it’s an emotional support animal!” This phrase is thrown around a lot today as more and more people seek to classify their animals as an emotional support animal. What exactly is an emotional support animal (ESA) and how do they differ from a pet? Generally, to the naked eye, there is no difference, but from a legal perspective there is a significant difference. This is one that you want to be very careful with to save yourself thousands of dollars in legal fees and discrimination complaints.

The U.S. Department of Housing and Urban Development (HUD) has stated that an emotional support animal are NOT a pet. So how do you as a landlord determine whether an ani-

mal is a pet or an assistance animal? This is not always easy, as certain disabilities are not always clear and obvious from simply seeing or interacting with an individual. There are two questions that a landlord should consider when dealing with a request for an emotional support animal: (1) Does the person seeking the emotional support animal have a disability? and (2) Does the person making the request have a disability related need for an emotional support animal?

As a landlord you cannot ask the individual to disclose their disability but you can require them to provide verification that they are disabled and that the animal assists the tenant to cover

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Quick Tips - Payments After An Eviction Notice

- ✓ Don't accept payment unless you're okay cancelling the eviction notice.
- ✓ If you do decide to accept a partial payment, you can re-serve an updated notice showing the new balance.
- ✓ Apply the payment to the oldest charges first.

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some of the challenges associated with their disability. These are “Yes” or “No” answers without getting into the details of what the disability is and exactly how the animal provides assistance.

Who can provide this verification? HUD guidelines require that this verification be from “a doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability.” The landlord may follow up to verify that the person provided the documentation, that the tenant is disabled, and that the animal assists the tenant with their disability (all yes or no questions). If everything checks out, the landlord is not dealing with a pet and must allow the animal as an emotional support animal (primarily meaning that you cannot charge a pet deposit or pet rent). However, you can enforce reasonable animal rules to ensure that the animal does not damage your property or cause problems for other residents.

Be careful and err on the side of caution when dealing with emotional support animal requests. Denial of an emotional support animal could end up costing thousands in attorney fees and fines.



Know Your Notice

Waste (Damages): Purpose: Used when your tenant damages your property.

This notice requires the tenant to fix the waste or vacate the property within 3 calendar days.

Make sure the waste was caused by your tenant or those that your tenant is responsible for (guests, etc.).

Document the waste with pictures and/or witnesses. If you end up in court, a picture is worth a thousand words.

Landlords are responsible for normal wear & tear. Tenants are responsible for waste (or damage beyond normal wear & tear).

Dear Attorney,

I have an Eviction Order, how do I handle the lockout?

An Order of Restitution (or eviction order) from the court usually requires that a Sheriff or a Constable be the one to enforce the order and perform the lockout. If the tenant refuses to leave, this is not something that the landlord should do by yourself.

Having a sheriff or constable finish the lockout will help to ensure everything is done correctly. There will be additional cost associated with the lockout, but if the case ends up back in front of the judge, you will be glad that everything was done correctly. If anything was handled incorrectly or the order was wrongfully enforced, the tenant may try to

make a claim for wrongful eviction or damage to their personal items.

As a piece of practical advice, allowing a sheriff or constable to enforce the order will also protect you as the landlord from any emotionally charged or dangerous situations which may arise as you attempt to perform a lockout on your own.



Questions for Us?

FREE 15 Minute
Landlord Consultation!
(801) 610-9879



Landlord Laughs



Every now and then we see strange provisions in lease agreements. Recently we came across a clause in a lease which stated, "No additional family members (father, brother, uncle, aunt, sister, mother, grandparent, cousin" are allowed on the property for any length of time, or for any reason."

In all honesty, there have been a few times we all wish that our lease (or mortgage!) had this language. I am not

sure if the Tenants requested this language or maybe the Landlord had prior problems with the family members and was trying to protect himself.

Either way, while this provision would be VERY difficult to enforce (if it were even enforceable at all), I'm sure it gave the Tenant some leverage when the in-laws wanted to come visit for a week!



Calendar of Events



- October 9 — UAA Ogden Good Landlord Class
- October 14 — Columbus Day
- October 18 — UAA Salt Lake Good Landlord Class
- October 31—Halloween



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 "Utah Eviction Law Reviews" and click on our link).

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