



Landlord Letter

April 2020

Five Ways COVID-19 is Impacting Evictions

We are repeatedly asked how evictions are being handled during the COVID-19 pandemic. We have been recommending both legal and practical solutions to help landlords work through the current climate.

First – The best advice we can give is to be patient and communicate with your clients. This is a difficult situation for everyone involved. The solutions that come out of two sides communicating and working together are usually better than any legal solutions from attorneys and a judge. Communicate with your tenants to make sure they're okay, safe, and taken care of. If they are struggling to pay rent, consider a deferment payment plan or maybe forgive late fees (which you are required to do under the CARES Act

which is discussed later). It's important to be flexible as you look for solutions.

Second – Timing is an issue. Prior to COVID-19 our goal was to complete our evictions in 2-3 weeks. When COVID-19 first hit, those timelines were about double. However, over the last few weeks the courts are handling cases again and we're getting closer to normal (but still not what they used to be). The two areas where we have been seeing delays are (1) when scheduling hearings (although most courts have been doing a lot better) and (2) granting extra time on an eviction order (more on this in #4 below).

Third – Eviction hearings were always in person, but with COVID-19 the courts have gone to virtual

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What people are saying about US!!!



“Fast, efficient, reliable. We've worked with both Jeremy and David on eviction cases and they get the job done, even when we approach them with a complicated case. . .”

~D.M.—Google Review



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hearings wherever possible. This means that the attorneys and the parties appear through a WebEx or Zoom meeting through a video chat or by simply calling in with a phone (video isn't required, but we prefer it so the judge can see the parties). Be patient during the hearing and don't interrupt anyone (especially the judge), the judge will give everyone a chance to be heard.

Fourth – Once a judge is signing an eviction order, the statute states that the tenant should have three calendar days to vacate the property “unless the court determines that a longer or shorter period is appropriate after a finding of extenuating circumstances”. Based on COVID-19, we have been stipulating that extenuating circumstances exist but we also explain the history of the case and any hardships that the landlord is dealing with to

help the judge understand both sides. Most eviction orders are still on the shorter end (7-10 days), but they have been longer than the standard 3 days.

Finally – Hire an attorney to address any state or federal restrictions related to evictions. Governor Herbert issued an executive order on April 1, 2020 that has since expired (on May 15, 2020). The Federal CARES Act (which included the \$2.2 Trillion stimulus package) contains other restrictions until July 25, 2020 for properties with a “federally backed mortgage”. If you have a federally backed mortgage, these restrictions include filing evictions for nonpayment, charging late fees/interest, or serving a notice to quit. Cutting corners or proceeding blindly can get your case delayed or dismissed.

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 isn't paying rent and says they will drag an eviction out for months. Can they?*



A: Probably not but you need to be careful. Even with the complications of COVID-19 the Utah courts are still accepting and processing eviction cases. The timelines have been extended a little as the court cautiously handles these cases, but it is unlikely that they will be able to delay an eviction for months.



The one exception to this is under the federal CARES Act for properties with a “federally backed mortgage” (i.e. loans from FHA, VA, USDA, or those owned/services by Fannie Mae or Freddie Mac). In that situation, the CARES Act imposes a 120 day moratorium on filing evictions for nonpayment (which will expire July 25, 2020). Once the moratorium has expired, an eviction may proceed as normal.

Even if an eviction cannot be filed, the lease is still effective and should be followed. Try to work with your tenants and maintain a good relationship. Make adjustments where necessary and communicate to try to work through your problems.

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 — Beware of Dog

There are a lot of unknown risks when a constable approaches a house to serve papers. Are the tenants armed? Will the tenants escalate the situation? Are they even home? It's best to be cautious in situations like this.

In a recent case, the constable began walking up the very long driveway to a house in the country. As he approached the house, he froze when saw a large dog on the front porch of the house. He placed his hand on his holstered pistol and slowly retreated down the driveway back to the safety of his car.

Once he was safely back in his car, he decided to drive the car up the long driveway. As he approached the house again he got a good look at the vicious dog – a huge and fluffy stuffed animal. After a good laugh at himself, he felt much safer as he walked up to the house to deliver the papers.



Parting Thoughts

- We're working to build our readership, tell your friends to subscribe to this FREE newsletter. Send us an email info@utahevicitionlaw.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/utahevicitionlaw).
- You can also give us a Five Star Google Review (search

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