



# Landlord Letter

April 2022

## What is Reasonable Wear and Tear?

One of the most common disputes between landlords and tenants in Utah involves security deposits and determining reasonable wear and tear. Under Utah law, the landlord is responsible to pay for damage to the property caused by reasonable wear and tear. But what exactly is reasonable wear and tear?

Utah statutes don't provide any legal definition of exactly what constitutes reasonable wear and tear. Our own definition would be something along these lines – "Damage based on ordinary use and exposure over time resulting from the expected deterioration that occurs naturally or organically."

If we use this definition of reasonable wear and tear, then the tenant is responsible for any dam-

age that exceeds reasonable wear and tear through negligence, carelessness, accident, misuse or abuse.

Even though defining reasonable wear and tear can be tricky, the main point to consider here is that things wear out. Carpet and paint don't last forever, even if they're taken care of.

It's not always black and white when determining reasonable wear and tear. Some situations may appear to ALWAYS be damage beyond reasonable wear and tear (broken windows or water damage), but in each of these situations there are circumstances that could make it reasonable wear and tear.

*(Continued on page 2)*

## 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*



(Continued from page 1)

For example, most of the time when a window gets broken it is likely damage that can be charged to the tenant. But if the window broke through no fault of the tenant, but based on the foundation settling, the tenant wouldn't be responsible. When a pipe bursts and causes major damage to the unit, if the tenant timely reports the damage they likely aren't responsible for the damage. Similarly, if the tenant was out of town when the pipe burst and flooded the below units, the tenant still isn't likely to be responsible for the damage.

Often times you might find something in the middle where it's a combination of reasonable wear and tear (that the owner has to pay for) and damage (caused by the tenant). For example, the tenant moved in a newly renovated unit two years ago and when they moved out the carpet needed to be re-

placed and the unit needed to be fully repainted (again). In this situation, it's best to do a depreciation calculation where the replacement costs of the carpet and paint are reduced based on the two years use that the landlord actually received. In this situation, if the carpet and paint should have lasted 10 years and the landlord had to replace them after just 2 years, that means the landlord lost 8 of the 10 years and can charge 80% of the replacement cost.

In the end, it's best to be reasonable and make these decisions on a case by case basis. But if the expenses the landlord incurred were from the Tenant's actions or their failure to act, you probably have a strong case for damage beyond reasonable wear and tear.

Attorney Jeremy Shorts

# Know Your Notice

*Use this notice when your tenant is interfering with someone else's comfortable and quiet enjoyment of their life or property.*

## • Nuisance •

*A nuisance can be anything that injures someone's health, is indecent, or is offensive to the senses.*

*Some typical types of nuisance: Disturbing neighbors, late and loud parties, smoking, gambling, prostitution, buying/manufacturing/selling drugs.*

*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,

**Q:** *One of my tenants requested an emotional support animal but I'm not sure what I can ask?*



**A:** First, you should always proceed cautiously and document your communications. Too often a landlord thinks they have to respond immediately, which isn't true. If you aren't sure what to say or how to respond, it is completely acceptable to say to the tenant "I'm not sure, let me check and get back to you."

If a tenant requests an emotional support animal for a disability that is not apparent or known, the landlord is able to verify two items: (1) whether the tenant is disabled, and (2) whether the animal assists them with their disability.

These are simple "Yes" or "No" questions. You shouldn't request information giving any details about what the disability is or how the animal assists them with their disability. But you are able to confirm that they are disabled and the animal assists them with the disability.

Document your file, respond promptly, and communicate clearly as you work through this process. It is important to enter into an interactive dialogue to see if you can come to a solution.



## 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 — What's your name? "Just Jake"



Often times the court will schedule multiple eviction cases at the same time. While we were waiting for the judge to call our case for our eviction hearing we ended up listening to an interesting case from "Jake".

As the case began, the judge asked if the tenant wanted to work with a volunteer attorney and he declined. The tenant introduced himself as "Jake" and the judge then asked his full name. The odd response came back "Just Jake" and he refused to provide his full name.

You may have heard the phrase that a man who is own lawyer has a fool for a client. Jake hadn't, BUT – Jake had actually done his homework and defended himself well. The landlord hired an experienced attorney, but the problem was the attorney wasn't experienced in evictions. In the end, Just Jake actually ran circles around the attorney. After Just Jake won, we're sure the landlord was disappointed they didn't hire us.

### 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](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 "Jeremy Shorts Utah Reviews" click on our link).

## Utah Apartment Association Trade Show

Tuesday,  
April 26th, 2022

8:00 AM - 5:00 PM

Mountain America  
Expo Center

9575 State Street  
Sandy, Utah

