



Landlord Letter

September 2022

Collecting on a Utah Judgment

You've got a judgment, now what? Obtaining a judgment is often only half of the battle. It does not mean that the court will collect the judgment for the landlord. Having a judgment is similar to a fishing license. Getting a fishing license doesn't mean you're guaranteed to catch fish, it means you're allowed to try to catch fish. Let's talk about some of methods and mention other options under Utah law.

The primary option is often a "**continuing wage garnishment**". A wage garnishment forces the employer to withhold 25% of the tenant's take home pay (after taxes and legal deductions). The garnishment should remain in place for at least four

months, but will continue for up to one year if no other wage garnishments are also trying to collect. The landlord can then renew the garnishment and the timeline starts over.

The second most common option is a "**bank garnishment**", but it does not apply just to bank accounts. This also allows the landlord to seize certain investment/retirement accounts, state tax refunds, and similar types of accounts. The accounts are frozen as of the time the garnishment papers are served. Hopefully there are substantial funds in the account, but if the account was closed or has a zero

(Continued on page 3)

DO's & DON'Ts of Hiring an Attorney



DO

- Ask questions to gauge their knowledge about evictions.
- Give them the details of your case to allow them to give detailed advice.



DON'T

- Hire an attorney that is NOT experienced in your case.
- Assume certain information or documents are not important (give them everything).

Dear Attorney,

My tenant is causing problems and isn't paying rent. We agreed in texts that they will move out, but they haven't. What should I do?

It's always best to work with your tenants, but if that fails you need to consider an eviction. Under Utah law there are only two primary ways to remove someone from your rental property:

back up these communications with either written eviction notices or the parties can also sign a written agreement.

In this situation, you will need to serve eviction notices and possibly start the eviction process. Since they're late on the rent, you should start with a three day pay or quit (we have these free forms on our website if you visit us at www.utahevictionlaw.com If there are other violations of the lease you should also serve additional notices. Where they have stated they will move out, hopefully serving these notices helps them to finish moving out to avoid an eviction. If they still don't move out, then you'll need to move forward with an eviction.

First, they move out voluntarily. Second, if they don't move out on their own, the landlord needs to evict them through the court process.

These informal messages (texts, emails, etc.) do not usually count as legal notice to terminate the lease or proceed with eviction. It's always best to



Know Your Notice

•No Cause—Lease Termination•

Purpose: Used to terminate your lease at the end of the initial term or during a month to month tenancy.

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

Even if both the landlord and tenant have verbally stated a termination date, it is best practice to follow up with a written no cause notice.

You normally can't terminate a lease in the middle of a month. If a 15 day notice is given March 20, the lease would terminate April 30.

Unless your lease requires more or less time, Utah law only requires 15 days notice to terminate a lease (but most written leases require 30 days notice).



(Continued from page 1)

balance, then nothing is received.

A “**tax garnishment**” is a type of bank garnishment that applies to Utah state tax refunds (not federal tax returns). Each fall our office begins the process of contacting hundreds of clients about thousands of cases to see if a tax garnishment would be beneficial as a collection option. If you have a judgment with our office, you can expect to be contacted shortly.

This covers the primary collection options, but there are others that ought to be addressed briefly:

- **Judgment Liens** – If the debtor owns real property a judgment can become a lien against the property upon recording at the county.

- **Writ of Execution** – Used to seize personal property and physical assets (vehicles, valuable property, equipment, cash, etc.).

Section 8 Fund – Utah has a fund set aside for landlords that obtain a judgment against a tenant on Section 8 Housing that can be used to cover up to \$5,000 in losses.

Supplemental Proceedings – Requires the tenant to appear in court and answer questions about income, assets, etc. that may lead to other collection options.

Overall, collecting can take time and they often are not successful. But these options give landlords the ability to collect. Be patient with the process and hopefully you’ll see success.

Attorney Jeremy Shorts

Courtroom Chronicles

We have a lot of cases that involve repeat offenders for evictions. Every now and then our clients are surprised to hear that their tenants have prior evictions or a criminal history. They review the rental application and confirm that their tenant reported zero evictions and zero criminal history.

In one case, the tenant met with the new landlord and was adamant that they had never been evicted. Because they seemed nice and everything else checked out, the landlord signed a lease and the tenants moved in.

Instead of going with their gut, if the landlord would have done a background check they would have seen that the tenant was actually just barely evicted AND they had prior felonies.

You’ve probably heard the phrase “Trust, but verify.” That certainly applies to processing tenant applications. Trust the information they’re providing, but it’s critical to perform background checks and make phone calls to verify what they’re reporting in the application.



Let us help you connect the eviction dots.



Phone: (801) 610-9879

Email: info@utahevictionlaw.com

Calendar of Events



- September 2 — Labor Day
- September 11 — Patriot Day
- September 16— URHA Good Landlord Class
- September 22—Fall begins!



***Evictions in
Weeks, Not
Months!***

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 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 "Jeremy Shorts Reviews" and click on our Google Plus link).