



# Landlord Letter

July 2025

## Tenants in Bankruptcy

We work quickly to handle all of our evictions in a timely manner. Our average eviction takes 2-4 weeks to work through. However, when a tenant files bankruptcy during the eviction process, the normally 2-4 WEEK process can turn into a 2-4 MONTH process. Let's talk about a few things landlords should consider if they believe their tenant has filed bankruptcy.

First, if the tenant DOES NOT owe any rent or money, you don't really need to do anything except monitor the situation to make sure they do not fall behind. As long as they continue to remain current on the rent, there's no need to pursue legal action. If they do fall behind, you should immediately consult an attorney to discuss your options.

When a tenant files bankruptcy, there is an "automatic stay" in place that prohibits legal action against the tenant. This means that you can-

not take legal action against the tenant unless you get permission from the bankruptcy court to continue.

Our initial step is to confirm that they actually filed bankruptcy, and the case is still pending (which imposes the automatic stay). Sometimes a tenant claims to have filed bankruptcy, but a quick check of the court docket can confirm whether that is true.

If they have an open bankruptcy case, we will need to file a "Motion for Relief from the Automatic Stay" where we request that the bankruptcy court lift the automatic stay so we can proceed with eviction. This process can take between 1-3 months. If approved by the bankruptcy court, you can then move forward with the normal eviction process (an additional 2-4 weeks).

Having said this, timelines are also really im-

*(Continued on page 2)*

## Know Your Notice Pay or Quit

**Purpose:** Assists the landlord in re-taking possession when a tenant has "rent or other amounts due".

*Landlords are NOT required to accept a partial payment, but if partial payment is accepted, the pay or quit is cancelled. The landlord must serve a new notice showing the new balance.*

*The three days stated in the notice are **business** days — excluding weekends and holidays. Do not count the day it was served. Day #1 begins the following day (For example — if served on Wednesday, the 3 days are Thursday, Friday & Monday).*

*A landlord cannot modify the pay or quit to become a "pay AND quit" or a "notice to quit". It MUST allow the tenant to either pay OR quit in order to comply with the eviction notice statutes.*

*A Pay or Quit requires the tenant to do just that: (1) pay entire balance owed, or (2) vacate within three days. Those are the only two ways for a tenant to comply with this notice and avoid an eviction.*

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portant when imposing the automatic stay. The automatic stay usually begins immediately when the bankruptcy case is filed. You normally need to pause the eviction process and file the motion for relief from the automatic stay. However, if the eviction court has already granted an eviction order, the landlord may be able to proceed with the eviction portion of the case (and any judgment would be handled in the bankruptcy case). Again, consult an attorney if you find yourself in this situation.

It can be time-consuming and expensive to proceed with an eviction when a bankruptcy case

is involved, but it is important to follow the guidelines and laws. Cutting corners or doing it wrong can create additional delays and additional liability that you should avoid.

-Attorney Jeremy Shorts



# 2025 Property Managers Conferences

We're excited to announce our  
2025 Property Managers Conference dates!

**Sandy**  
**Friday, September 12**  
**230 W Towne Ridge Pkwy**  
**(Realtor's Building)**

**Orem**  
**Thursday, October 9**  
**998 North 1200 West**  
**(Keller Williams Building)**

We will have updated and new classes throughout the day and over lunch.  
Visit our website - [www.utahevicitionlaw.com/Conference](http://www.utahevicitionlaw.com/Conference)  
or [Click Here](#) to Register

# Dear Attorney,

**Q:** *My tenant is getting married and notified me that his new wife and her two children will be moving in, what do I do?*



**A:** *The first thing to do is reach out to your tenant and tell him that his new wife, and any ADULT children, will need to fill out a rental application. This will allow you to see if the adults meet your rental criteria.*

*If they don't meet your rental criteria (i.e., they have recent criminal history or recent evictions), they do not qualify and allowing them into the unit could be a lease violation. If they do qualify and meet your rental criteria, you can either (1) sign a new lease with all of the tenants (old and new), or (2) you can simply sign an addendum to your lease to add the new tenants (but you should have ALL tenants sign the addendum as well).*

*If they refuse to submit an application, or extra people move into the unit prior to approval, check the language of your lease to verify if it*

*prohibits assigning or subletting. If your lease prohibits assigning or subletting, you can provide your tenant with an eviction notice ("Three Day Comply or Vacate"), allowing three days to come into compliance with the lease. The wife would also receive a separate eviction notice ("Five Day Notice to a Tenant at Will") because she is not on the lease and not permitted to be there.*

*After those notices have expired, you will need to gather evidence to support the illegal assigning or subletting (pictures, videos, witnesses, etc.). Be cautious, proving lease violations like this can be difficult. It's best to try to communicate with your tenants through these issues to come to a mutually agreeable solution.*

## DOs & DON'Ts of Rent, Ledgers & Cash



### DO

- Document each payment (tracking the date, amount, cash/check, and description for each payment).
- Communicate clearly with your tenant about payments and balances.



### DON'T

- Accept cash without providing a receipt (documenting EVERY payment is critical).
- Rely on your memory for payments (memory fades and is easily challenged in court).

## Courtroom Chronicles – What Comes First?

Our featured article this month mentions that timing is critical when it comes to evictions and bankruptcy. If an eviction order is signed before the bankruptcy case is filed, the landlord can usually proceed with the lockout even though there's a pending bankruptcy case.

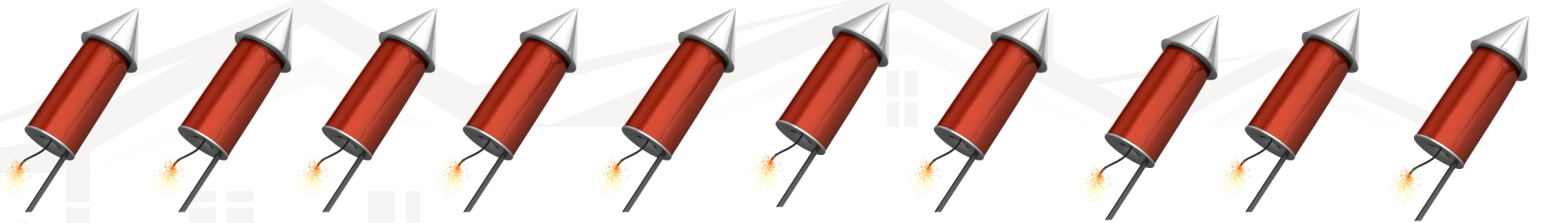
In one of our cases, there were two different hearings on the same day. Our eviction hearing was set for 2:30 PM, and the tenant had a bankruptcy hearing at 3:00 PM to decide whether to re-open the bankruptcy case (which would reimpose the automatic stay).

When our eviction hearing started, the tenant's attorney stated he had filed a request with the bankruptcy court to stop the eviction. A judge's ears will perk up if you mention there is a bankruptcy case, which is what happened here and the judge was about to deny our eviction.

I then explained, "He's correct, there is a bankruptcy hearing in 15 minutes, but as of right now there is NOT a bankruptcy case open right now so there is no automatic stay at the moment."

When the judge turned to the tenant's attorney for a response, the attorney had to confirm "Technically, he's correct. There's no bankruptcy in place right now, but I think there will be in 10 minutes when the judge listens to our bankruptcy case."

The judge responded, "Well, it's 2:50 PM right now and if there's no bankruptcy case open right now, I have to decide the case and grant the eviction." This 10-minute window allowed us to sidestep a fight in bankruptcy court and move forward with the eviction.



**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](mailto: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](http://www.facebook.com/utahevictionlaw)).
- You can also give us a Five Star Google Review (search "Utah Eviction Law Google Reviews" and click on our Google Plus link).

## Calendar of Events

• July 4 — Independence Day

• July 24 — Pioneer Day

