



Landlord Letter



Drafting Eviction Notices Like an Attorney

The eviction notice is not only the foundation of your eviction case, it's probably the most critical step in the entire process. That means we spend A LOT of time talking about eviction notices – which notices to serve and what they should say. Having a flaw in your eviction notice can easily get your case delayed or dismissed. Doing it right creates a stronger case when you're in front of the judge.

Let's go with a specific situation and work through what we recommend. It's not uncommon for us to get a call like this: "My tenant has been smoking marijuana in the property and is having loud parties. The neighbors called the police because of the noise and they smelled marijuana smoke. The police broke up the party, found drugs, and there's

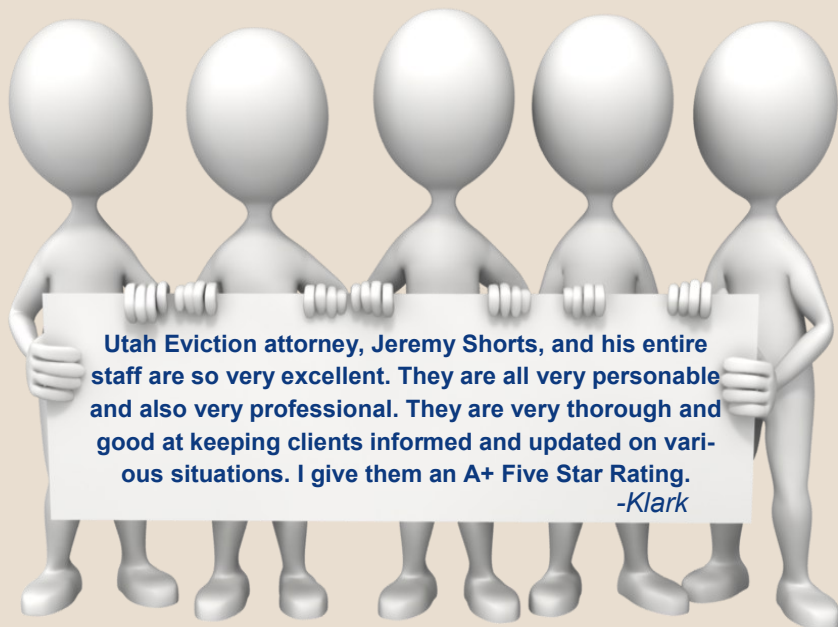
damage to a few walls and the bedroom door."

First, whenever a landlord calls with a crazy story like this, I go to our own website to review the list of all of the eviction notices (www.utahevictionlaw.com). Based on what happened, we'll select all of the eviction notices that are applicable. In this situation, we'd recommend: (1) Lease Violations, (2) Nuisance, (3) Criminal Acts, and (4) Waste. Yes, you should serve multiple eviction notices because it creates a stronger case. We only have to prove ONE of these notices, not all of them.

For example, in this situation we would recommend something like this:

(Continued on page 2)

**What people are
saying about US!!!**



Utah Eviction attorney, Jeremy Shorts, and his entire staff are so very excellent. They are all very personable and also very professional. They are very thorough and good at keeping clients informed and updated on various situations. I give them an A+ Five Star Rating.
-Klark

(Continued from page 1)

Nuisance: You have interfered with the quiet enjoyment of the property by other tenants/neighbors by having loud parties and guests which resulted in the police being called (Lease, ¶12). Smoke has drifted into other units, and you are suspected of using drugs on the property.

Criminal Acts: You or your guests have used or possessed drugs and/or drug paraphernalia in the property. These actions took place on the property, you must vacate the property within 3 calendar days.

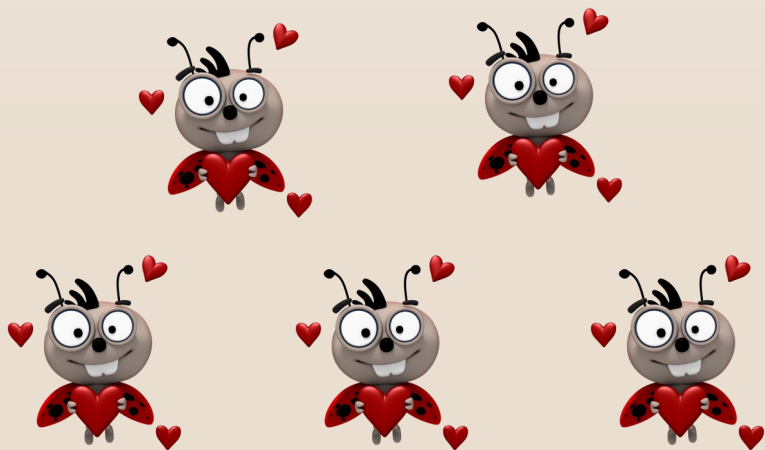
Waste: You have caused damage to the living room walls, including holes and other scuffs to the walls and paint. Broken door to master bedroom. You must vacate the property within 3 calendar days.

Lease Violations: (Read through your lease to see what they've violated, for this exercise we used our free lease.)

Paragraph 15: Violation of peaceful enjoyment by causing or allowing excessive noise late at night which interfered with peaceful enjoyment by other residents. Paragraph 18: Smoking within the property. Paragraph 21: Police found drugs and/or drug paraphernalia within the property.

Again, you don't have to report every little complaint that you've received, but including this level of detail gives them more than enough notice of why they're being evicted. If they fail to comply with the eviction notices, you've done what you can to build a strong foundation for your eviction case. As always, contact our office if you ever have any questions.

-Attorney Jeremy Shorts



DO's and DON'Ts of Entering/Inspecting the Property



Provide your tenant with at least 24 hours written notice of any inspections.



Cause any damage or remove any property



If you're concerned about your tenant, have someone else accompany you.



Change locks prior to receiving a court order.



Document (including pictures) any damage or lease violations you observe.



Overuse inspections. Take steps to ensure their quiet enjoyment of the property.

Dear Attorney,



I've finished with the entire eviction process and have the eviction order signed by the judge, but my tenant just requested a hearing. What do I do?

We call this an “Enforcement Hearing,” but they are usually fairly straight forward. Under Utah law, even after an eviction order has been signed and the constable has completed the lockout, the tenant may still be entitled to a hearing. But, the focus of this hearing is usually very narrow.

At this point in the case, the judge has already approved the eviction and the constable has enforced the eviction order. This hearing isn't to talk about whether the tenant should be evicted (that's already been decided usually). This hearing would be to oversee “the manner of enforcement of the eviction order.”

The focus of this hearing is NOT to revisit whether the tenant should be

evicted. The hearing will focus on whether the eviction order was enforced properly and whether Utah law is being followed during the eviction case.

An Enforcement Hearing often focuses on whether the tenant was given the proper time to move out, and whether their personal items are being stored in compliance with Utah law. The judge will usually listen to both sides and attempt to resolve the disputes or issues related to the eviction order. It's rare to discuss the underlying issue of whether the eviction should take place.



Know Your Notice • Unlawful Business •

Purpose: To evict your tenant for conducting an unlawful business on your property.

Make sure your evidence is strong (witnesses, police reports, activity logs, etc.).

Keep good records of the unlawful business being conducted (i.e. pictures, emails, texts, etc.).

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

This notice does NOT give the tenant an opportunity to cure. The tenant must vacate within 3 days or face an eviction.

Courtroom Chronicles — I Object!!!

Watching people appear in court without an attorney is usually a good lesson of why you should have an attorney on your case. We recently watched a case where the tenant was representing themselves during an eviction hearing.

The judge placed the landlord on the witness stand and the tenant began questioning the landlord. The tenant got a little argumentative and aggressive during one section of the questions. The tenant asked a question, but he didn't like the answer that the landlord gave him.

The answer was a damaging blow to the tenant's case, so the tenant immediately yelled, "I object!!!" and waited for the judge to respond. The judge responded, but not in the way that the tenant wanted.

The judge overruled the objection and said "Just to be clear, you don't get to object to your own question just because you don't like the answer!" The answer stood, and the tenant lost the case.



Contact us for a Landlord Consultation!

Phone: 801-610-9879

Email: info@utahevictionlaw.com

Web: www.utahevictionlaw.com

Parting Thoughts

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