

# Avoiding an Eviction Lawsuit

**Q: What is an “Eviction Lawsuit”?**

A: When a landlord wants to terminate a rental, the landlord must first give a written notice to the tenant. Once the number of days stated on this written notice passes, if the tenant is still in the rental unit then the landlord must file a lawsuit in district court to proceed with the eviction.

**Q: What kinds of notices can a landlord give before filing a lawsuit for eviction?**

A: The usual notices are as follows:

- 3 days to pay rent or vacate (see our flyer titled [Nonpayment eviction](#))
- 3 days to comply with lease or vacate (often given for having a pet or an unauthorized tenant)
- 3 day nuisance or criminal nuisance (for “bad behavior” or alleged commission of a crime; no chance to cure)
- 5 day pay, vacate or seek a variance (if you own your mobile home and live in a mobile home park)
- 5 day “tenant at will” (often given in error following foreclosure; see our flyer [Tenant in Foreclosed Property](#))
- 15 or 30 day “no cause” eviction in month-to-month non-subsidized rental (see [No Cause” Termination of Tenancy](#))

If the tenant has not vacated during the notice period then the landlord’s only alternative is to file an eviction lawsuit against the tenant (see [Notice to Landlord](#)). The flyer [Nonpayment eviction](#) has information about the court process. If the tenant has no defense to eviction then the tenant is unlawfully detaining the rental unit after the notice period expires. Withholding the rent money because the landlord won’t make repairs is not a defense to eviction unless it’s done correctly. See our flyer [Bad Housing](#).

**Q: What should I do if I get an eviction notice?**

A: Get legal help immediately. Do not wait. If you are in a low-income household, a senior citizen or are the victim of domestic violence, call us at the number and times below. You may also review the flyers we have posted on our website. If you owe rent but can pay it off soon, ask the landlord to agree to a written repayment plan. Call 211; some local social agencies have limited funds to provide rental assistance. If you want to try mediation with your landlord, call Utah Dispute Resolution (877-697-7175) or the Community Action Program if you live in Salt Lake County (801-359-2444). If you have no good defense, try negotiating with the landlord by agreeing to move out on a certain date in the very near future (such as one week) in exchange for the landlord not filing an eviction action. (For example, “I will move out by Sunday night.” The landlord might then agree not to file against you.) If you are served with a summons and complaint for eviction, there is very little time to respond. If you get a summons and complaint but do not respond, a judgment will be entered against you “by default” both evicting you and ordering you to pay an amount of money.

**Q: What if I move out during the notice period?**

A: The landlord cannot file an eviction lawsuit against you if you have already moved out. The landlord can, however, file a collection action against you for unpaid rent and damage to the property.

**Q: How might the filing of an eviction lawsuit affect me?**

A: Once an eviction action is filed, it is a permanent record. Landlords often do background checks when someone fills out an application to be a tenant. Some landlords will not rent to people against whom an eviction action has been filed, even when the defendant wins or the case is dropped. If the judge determines that the tenant stayed in the property without a legally valid reason after the notice period then the landlord can get treble damages (triple the rental amount) for each day the tenant stays as well as attorney fees and court costs and all the unpaid rent and late fees. Court judgments affect one’s credit rating. If the landlord gets a monetary judgment, the landlord can garnish wages or take non-exempt property and sell it to help pay off the judgment. The landlord can also require that you appear in court every so often to answer questions about your income and assets. If you get such a notice to appear (for a “supplemental proceeding”), you must go. Otherwise, a warrant for your arrest may be issued by the court, not because you owe money but because you did not appear when ordered. And if you are evicted, you will almost certainly lose any housing subsidy you may have.

[Over for information about housing subsidies]

**Q: Will an eviction affect my housing subsidy?**

A: Yes. You will likely lose it. If you have a section 8 (“Housing Choice”) voucher, it will be terminated. In order to get a moving packet from the housing authority your current landlord must provide a release. The landlord is required to tell the housing authority whenever a section 8 voucher beneficiary is given an eviction notice. When the housing authority finds out you received an eviction notice, it will notify you that your subsidy is in jeopardy.

If you live in a rent-subsidized property (“project-based”, public housing or section 42 Low Income Housing Tax Credit), the subsidy goes with the premises and is not portable. If you are evicted from rent-subsidized housing, you may become ineligible for rent-subsidized housing for many years in the future.

**Q: What can I do to save my housing subsidy?**

A: Avoid a court-ordered eviction. Follow the instruction above (“What should I do if I get an eviction notice?”). If you have a section 8 voucher, you will need one additional written document that may be difficult to obtain: the landlord’s release. The housing authority will not issue a moving packet until the landlord provides a written statement that you have no outstanding obligations such as unpaid rent. Some landlords will agree to waive some or all of the past-due rent and/or tenant-caused damage in exchange for not having to file an eviction lawsuit if the tenant agrees to move out very soon (and perhaps pay some negotiated amount of money). Eviction lawsuits cost money to file in court and many landlords hire an attorney who charges fees for handling an eviction.

If you live in public housing or many rent-subsidized properties, you should request an administrative hearing or “meeting” as soon as you get the first eviction notice. (In some cases of alleged criminal activity, the landlord does not have to provide an opportunity for an administrative hearing.) You may be able to preserve your subsidy this way.

If you live in rent-subsidized property where no housing authority is involved, it is usually enough to agree with the landlord that you will move out on some particular date before an eviction lawsuit is filed. It will help you if the landlord agrees to give a “neutral reference” when contacted about your tenancy. That is, the current landlord agrees not to provide negative or derogatory information about you. However, landlords need not agree to this and even when they do it is very difficult to enforce.

*Remember that when an eviction lawsuit is decided by a judge, someone wins and someone loses. A tenant with a housing subsidy must balance a “voluntary” move in order to retain valuable current or future financial assistance against the risk of both losing that assistance and being involuntarily evicted. Some landlords will not offer such a voluntary termination. But when it’s possible, it’s worth considering.*

You may also find helpful information in the following flyers:

[Basic Guide to Answering an Eviction Complaint](#)

[Eviction: What’s the Worst that Can Happen to Me?](#)

[Mutual Termination of Rental Agreement](#)

[Nonpayment eviction](#)

Be alert for traps laid by some landlords. Please read our [Watch Out!](#) flyer **before** you rent.

**Utah Legal Services**

**New clients may call Monday – Friday from 9:00 to 2:00**

**In Salt Lake County call 801-328-8891 or 800-662-4245 from elsewhere in Utah**

**Offices in Ogden, Salt Lake, Provo and St. George**