Mobile Home Park – Nonpayment Eviction

Q: Can I be evicted for not paying the lot rent if I own my own mobile/manufactured home?

A: Yes. Utah's Mobile Home Park Residency Act (MHPRA), Utah Code §§57-16-1 *et seq.*, allows the park to begin the process to terminate the tenancy for "nonpayment of rent, fees, or service charges for a period of five days after the due date." Do everything you can to pay the rent! If you are evicted, you will lose your home.

Q: Does Utah law require a 5-day grace period for payment of the lot rent?

A: Yes. The MHPRA requires that a written agreement exist between the park and the mobile home owner and this agreement can permit a longer grace period but it cannot shorten the grace period. In other words, the written agreement cannot say space rent is overdue after the third or fourth of each month.

Q: If I don't pay my rent within the 5-day grace period, do I get another opportunity to pay?

A: After the grace period, the park must give you a written notice telling you to pay, vacate the lot (meaning: move your mobile home) or seek a variance within 5 calendar days after you get the notice. This notice must be given to the person who signed the written agreement with the park or to someone residing in the mobile home. The notice given to the resident need not be served by a constable; it can be delivered by the manager or anyone else. It need not be notarized. And it doesn't look like a "court paper." Such a notice can be very informal, such as a "Dear Homeowner" letter. But it must contain certain language and it must be delivered in a certain way. After the 5-day period expires, the park does not have to accept payment from you even if you have all the rent and late fees. Do everything you can to pay within the 5-day notice period. If you are evicted, you will lose your home.

Q: How must the park give me notice to "pay or vacate"?

A: The law says that the lessee (person who signed the lease) or another resident of "suitable age and discretion" must personally get the notice. If the lessee or a suitable resident is not present when the notice is served, then the park must send a copy of the notice by registered or certified mail to the lessee. The park can also post a copy to the lessee's mobile home and/or leave a copy with someone else who "answers the door" at the mobile home.

Q: What must the park's nonpayment notice say?

A: The MHPRA requires that the notice contain all of the following. It must say you have five (5) calendar days to pay or to vacate the space (by moving your mobile home) or "seek a variance." The five-day period starts the day ***after*** you receive the notice. If the notice was mailed to you but was not personally delivered to you or a suitable resident, seven additional calendar days are added to the end of the notice period.

Q: What does "seek a variance" mean?

A: The nonpayment notice must tell you that you can ask the park for leniency, such as a delay in paying the rent or a time-payment agreement or a waiver of some part of what is due. But while the notice must tell you that you can ask for a variance, nothing in Utah law requires that the park agree to a variance. The park can continue to demand full payment of the entire rent (plus late fees if late fees are part of the written agreement) within the five-day period. If the park agrees to a variance, it must be in writing. If not in writing, it will probably not be enforceable in court.

Q: What happens if I can't pay, can't move my mobile home and the park refuses to work with me?

A: The next step is for the park to file an unlawful detainer ("eviction") lawsuit against you. The park cannot lock you out or turn off your utilities without a court order. You must first be served (usually by a constable) with a summons and

complaint. The summons and complaint must be served personally; it can't be posted to your door. But if the constable can't find you or a suitable resident at home then the park can ask the court to have you served by mail. The summons must say that you have at least five (5) days to file a written answer to the complaint with the court. Do not count the day the summons was served on you; count every day after that. If the last day to file a response falls on a weekend or holiday, then the next business day is the last day to respond.

Q: How do I respond to the summons and complaint?

A: You must file a written response (called an "Answer") with the court and mail a copy of your response to the park's lawyer (or park owner if the owner is self-represented). The Utah Legal Services website has several flyers explaining how to create an Answer to an eviction complaint. In general, you want to respond to each numbered paragraph in the complaint and then add whatever additional information you want regarding the rent, for example, that you don't owe rent or don't owe as much as the park claims or that you tried to pay but the park would not accept it. (Partial payment of rent is generally not a defense to eviction.) Once you file your Answer, the plaintiff (the park) will request a hearing in court. At the first hearing in an eviction case, the only issue the judge must decide is whether to evict the mobile home owner from the rented space; at the first hearing the judge almost never determines exactly how much rent (and late fees, court costs and attorney fees) is due. Those monetary issues are reserved for a later date. If in your Answer you agree with everything in the plaintiff's complaint then it is likely the plaintiff will ask for a ruling from the court without ever requesting a hearing.

Q: If I go to the hearing and the court rules against me *OR* I do not file a written response to the complaint *OR* I file an Answer but then don't go to the hearing, what happens?

A: In such cases, an Order of Restitution will be issued by the court. "Restitution" here means restoring possession of the lot to the park. This Order must be served by a constable but it can be posted on the door of the mobile home. The Order will say that you have fifteen (15) calendar days to move your mobile home off the lot. If you don't move your home, the park can lock you out and prevent you from accessing your mobile home. If you leave personal possessions inside your home after you've been locked out, please see our flyer *Request for Return of Personal Property.*

Q: What happens to my mobile home if I'm evicted?

A: If you are unable to move your mobile home and are locked out of the park, it is likely that the park will start the legal process to seize your mobile home. The park must first get a monetary judgment against you. This judgment will include the past due rent, late fees, court costs, attorney fees and may also include treble damages (three times the daily space rent amount for each day after the end of the 5-day pay-or-vacate period). If you filed an Answer and went to the first eviction hearing, you will get notice of another hearing regarding a monetary judgment. Make sure you update both the court and the opposing attorney with your current mailing address. At this hearing you can argue that the amount due is less than the amount claimed by the park. Once a monetary judgment is entered, the park can ask the court for a Writ of Execution to seize and sell your mobile home at a public auction. But any buyer will either have to move the mobile home out of the park (very costly) or apply for residency in the park. For this reason, the park will often be the only bidder. The park would become the new owner of your home and then try to sell it later or rent it out.

If you own a mobile home and are threatened with eviction for any reason, you may be eligible for help. Please call us.

Utah Legal Services

New clients call M – F 9:00 – 2:00: 801-328-8891 in the SL valley or 800-662-4245 elsewhere in Utah

www.utahlegalservices.org