

Effective 5/1/2024

Superseded 5/7/2025

78B-6-812 Order of restitution -- Service -- Enforcement -- Disposition of personal property -- Hearing.

(1) As used in this section:

(a) "Personal animal" means a domestic dog, cat, rabbit, bird, or other animal that is kept solely as a pet and is not a production animal.

(b)

(i) "Production animal" means a live, nonhuman vertebrate member of the biological kingdom Animalia used for the purpose of producing, or being sold to another for the purpose of producing, food, fiber, or another commercial product.

(ii) "Production animal" includes:

(A) cattle;

(B) sheep;

(C) goats;

(D) swine;

(E) poultry;

(F) ratites;

(G) equines;

(H) domestic cervidae;

(I) cameliadae;

(J) a guard dog;

(K) a stock dog;

(L) a livestock guardian dog; and

(M) a fur bearing animal kept for the purpose of commercial fur production.

(2) An order of restitution shall:

(a) direct the defendant to vacate the premises, remove the defendant's personal property, and restore possession of the premises to the plaintiff, or be forcibly removed by a sheriff or constable;

(b) advise the defendant of the time limit set by the court for the defendant to vacate the premises, which shall be three calendar days following service of the order, unless the court determines that a longer or shorter period is appropriate after a finding of extenuating circumstances; and

(c) advise the defendant of the defendant's right to a hearing to contest the manner of its enforcement.

(3)

(a) A copy of the order of restitution and a form for the defendant to request a hearing as listed on the form shall be served in accordance with Section 78B-6-805 by a person authorized to serve process pursuant to Subsection 78B-8-302(2).

(b) A request for hearing or other pleading filed by the defendant may not stay enforcement of the restitution order unless:

(i) the defendant furnishes a corporate bond, cash bond, certified funds, or a property bond to the clerk of the court in an amount approved by the court according to Subsection 78B-6-808(4)(b); and

(ii) the court orders that the restitution order be stayed.

(c) The date of service, the name, title, signature, and telephone number of the person serving the order and the form shall be legibly endorsed on the copy of the order and the form served on the defendant.

- (d) The person serving the order and the form shall file proof of service in accordance with Rule 4(e), Utah Rules of Civil Procedure.
- (4)
- (a) If the defendant fails to comply with the order within the time prescribed by the court, a sheriff or constable at the plaintiff's direction may enter the premises by force using the least destructive means possible to remove the defendant.
 - (b)
 - (i) Personal property remaining in the leased property may be removed from the premises by the sheriff or constable and transported to a suitable location for safe storage.
 - (ii) The sheriff or constable may delegate responsibility for inventory, moving, and storage to the plaintiff, who shall store the personal property in a suitable place and in a reasonable manner.
 - (c) A tenant may not access the property until the removal and storage costs have been paid in full, except that the tenant shall be provided reasonable access within five business days to retrieve:
 - (i) clothing;
 - (ii) identification;
 - (iii) financial documents, including all those related to the tenant's immigration status or employment status;
 - (iv) documents pertaining to receipt of public services; and
 - (v) medical information, prescription medications, and any medical equipment required for maintenance of medical needs.
 - (d) The personal property removed and stored is considered abandoned property and subject to Section 78B-6-816.
 - (e) If a personal animal is on the premises, the sheriff or constable executing the order of restitution shall give the personal animal to the tenant, if the tenant is present.
 - (f) If the tenant is not present when the order of restitution is enforced:
 - (i) the sheriff, constable, or landlord shall notify the local animal control authority to take custody of the personal animal;
 - (ii) the animal control authority shall respond to take custody of the personal animal within one business day after the day on which the sheriff, constable, or landlord provides the notice described in Subsection (4)(f)(i);
 - (iii) the animal control authority or organization where the personal animal is taken shall apply the same standards described in Section 11-46-103;
 - (iv) the landlord shall provide the animal control authority with the name and last known contact information of the tenant; and
 - (v) the animal control authority shall post a notice at the premises in a visible place with the name and contact information of the animal control authority or organization where the personal animal is taken.
- (5)
- (a) In the event of a dispute concerning the manner of enforcement of the restitution order, the defendant may file a request for a hearing.
 - (b) The court shall:
 - (i) set the matter for hearing:
 - (A) within 10 calendar days after the day on which the defendant files the request for a hearing; or
 - (B) as soon as practicable, if the court is unable to set the matter within the time described in Subsection (5)(b)(i)(A); and

- (ii) provide notice of the hearing to the parties.
- (6) The Judicial Council shall draft the forms necessary to implement this section.