

Effective 5/8/2018

78B-6-815 Abandonment.

- (1) Abandonment is presumed in either of the following situations:
 - (a) The tenant has not notified the owner that the tenant will be absent from the premises, and the tenant fails to pay rent within 15 days after the due date, and there is no reasonable evidence other than the presence of the tenant's personal property that the tenant is occupying the premises.
 - (b) The tenant has not notified the owner that the tenant will be absent from the premises, and the tenant fails to pay rent when due and the tenant's personal property has been removed from the dwelling unit and there is no reasonable evidence that the tenant is occupying the premises.
- (2) Abandonment is established as a matter of law if the owner has reason to believe that the presumption of abandonment under Subsection (1) has been met, the owner serves the tenant with a declaration of abandonment, and the tenant fails to dispute or rebut the declaration of abandonment in accordance with this Subsection (2).
 - (a) The tenant may be served with a declaration of abandonment that includes at least a contact address for the owner, contains a brief factual basis supporting the owner's reasonable belief that the presumption of abandonment under Subsection (1) has been met, and states the date and time of service and includes the following language, or language that is substantially similar: "It is believed that these premises are abandoned and the owner is seeking to regain possession of the premises. If a tenant in legal possession of the premises has not abandoned the premises, the tenant must dispute abandonment in writing within 24 hours of service of this declaration of abandonment by providing a copy to the owner at the contact address included with this declaration of abandonment. If written notice is not served on the owner within 24 hours, the owner may retake possession of the premises." The 24-hour period stated in this Subsection (2)(a) does not include a Saturday, a Sunday, or a holiday during which the Utah state courts are closed.
 - (b) Service of the declaration of abandonment by the owner and any dispute or rebuttal by the tenant shall be made pursuant to Section 78B-6-805.
 - (c) If the tenant fails to dispute the declaration of abandonment in writing by serving notice to the owner within 24 hours of being served a declaration of abandonment, excluding a Saturday, a Sunday, or a holiday during which the Utah state courts are closed, the declaration of abandonment serves as prima facie evidence that the tenant has vacated and abandoned the premises.
 - (d) The tenant bears the burden to rebut an abandonment that is established by a declaration of abandonment by clear and convincing evidence.

Amended by Chapter 291, 2018 General Session