

INFORMATION FOR EVICTIONS IN THE WELLS JUSTICE COURT

THIS INFORMATION SHEET IS INTENDED FOR LANDLORDS. IT EXPLAINS RULES AND INFORMATION PERTAINING TO THE EVICTION PROCESS AT THE WELLS JUSTICE COURT.

THE COURT CLERK IS NOT ABLE TO OFFER LEGAL ADVISE OR PERSONAL INFORMATION UNDER ANY CIRCUMSTANCES.

WHAT IS A SUMMARY EVICTION

Summary eviction is a fast eviction process where the tenant can file a Tenant's Affidavit in court to contest an eviction before the landlord files anything. Eviction notices do not need to be filed with a court to be valid. The tenant has the designated time in the notice to comply, move out, or file a Tenant's Affidavit to contest the eviction. The summary eviction process is detailed in NRS 40.253 and 40.254.

Most evictions in Nevada are summary evictions. Some evictions cannot utilize this summary eviction process. These include owners of mobile homes living in mobile home parks and new owners evicting them after a sale or foreclosure.

WHAT ARE THE DIFFERENT TYPES OF SUMMARY EVICTIONS

There are three different types of summary evictions:

- 1.) Seven-day notice to pay rent or quit
 - 2.) Thirty-day "No-Cause" Notice to Quit
 - 3.) Three-Day Notice to Quit for Nuisance, Waste, Assigning, Subletting, Unlawful Business or Drug Violations.
- **INDIVIDUAL EVICTIONS**

Seven-Day Notice to Pay Rent or Quit:

The landlord will need to serve or have the eviction notice served by the Elko County Sheriff's Office. Please see the Declaration of Service for the different types of services. After the Seven-Day Notice has been served, the landlord will need to wait 7 judicial days (the court must be open). If the notice is mailed, the tenant gets 3 extra days for a total of 10 judicial days. On the eighth or eleventh day, the landlord can come to the court and file a Landlord's Affidavit. If the tenant appears to contest the eviction notice and files a Tenants Affidavit, the court will schedule a hearing after the landlord files the Landlord's Affidavit for Summary Eviction. If the tenant has not come to the court to contest this matter, the court will review all paperwork that has been filed, and if everything is done properly, the court will grant a Summary Eviction.

When the landlord comes to the court, they will need to bring the following:

- 1.) Copy of Lease agreement –
- 2.) Copy of Seven Day Notice that was served. –
- 3.) Proof of Service (Declaration of service)
- 4.) \$61.00 for Landlord Affidavit filing fee.

Thirty-Day “No-Cause” Notice to Quit

Under Nevada law, NRS 40.251, the landlord can serve a No-Cause Eviction Notice after the lease has expired. This Notice does not have to provide the tenant with any reason for the eviction. If the tenant rents by the week, the landlord must serve a 5-day notice. If the tenant rents for any other period, the landlord must provide a 30-day notice. After the no-cause notice expires, the landlord must then serve a 5-day Unlawful Detainer notice. At the expiration of the Unlawful Detainer notice, the landlord can file for an eviction with the court. If the tenant is disabled or 60+ years of age, the tenant can request an additional 30 days in writing if they supply proof of their age or disability. If the landlord denies the tenant's request, the tenant can then file a Tenant's Affidavit in court when they receive the 5-Day Unlawful Detainer upon the expiration of the No-Cause Notice. The court will determine whether the tenant can stay for the additional 30 days. If the tenant is 59 or younger and not disabled, the tenant can ask the court for more time (up to 10 days) to move under NRS 70.010. To do this, the tenant will need to file a Tenant's Affidavit to contest the eviction.

In order to contest the eviction, the tenant will need to file a Tenant's Affidavit with the Justice Court within the 5-day timeframe of the unlawful detainer notice.

The 5-Day Unlawful Detainer notice must advise the tenant that they have five (5) judicial days to move or file tenant's affidavit with the justice court to ask for a hearing on the matter. Do not count the days of the notice, weekends, and holidays when the court is closed. Also, if the fifth day is a weekend or holiday, the tenant will then have until the next day the court is open.

If the tenant does not file an affidavit and does not move, then the landlord can get an eviction order from the judge at the end of the 5 days without any further notice to the tenant. The constable or sheriff will then serve the eviction order on the tenant and lock them out 24-36 hours after service of the Lockout Order.

When the landlord comes to the court, they will need to bring the following:

- 1.) Copy of Lease agreement –
- 2.) Copy of Thirty Day Notice that was served. –
- 3.) Proof of Service (Declaration of service)
- 4.) Copy of the Five-Day unlawful detainer -Proof of service (Declaration of service)
- 5.) Certificate of Mailing if mailed. –
- 6.) \$61.00 for Landlord Affidavit filing fee.

Three-Day Notice to Quit for Nuisance, Waste, Assigning, Subletting, Unlawful Business or Drug Violations

Nevada law defines a nuisance as anything serious or repeated that affects the neighbors or the condition of the dwelling. For example, a party celebrating a child's graduation is probably not a nuisance. Repeated wild parties would be a nuisance. Depending on the circumstances, this could mean that if the tenant can fix the problem within the expiration of the notice, then the tenant will have a legal defense against the eviction. In some situations, however, the nuisance is so severe that the tenant cannot fix the problem, such as committing a serious crime on the property. After receiving the 3-Day Nuisance Notice, the tenant should submit a statement in writing to the landlord that the tenant has "abated" the nuisance, fixed, or resolved the problem. The statement should be signed, dated, and include relevant documents, if available. If the landlord does not agree that the conduct has ceased or otherwise wants to continue with the eviction, the tenant will receive a 5-Day Unlawful Detainer Notice after the 3-Day Nuisance Notice expires.

A landlord can only evict a tenant for a "material" lease violation. "Material" means important or legally significant. Repeated instances of minor violations of the lease also constitute a basis for eviction. For example, not paying a security deposit could be a material lease violation.

After receiving the 5-day Lease Violation Notice, the tenant should submit a statement in writing to the landlord advising that they have "cured," fixed, or resolved the problem. The statement should be signed, dated, and include relevant documents, if available.

If the landlord does not agree that the lease violation has ceased or otherwise wants to continue with the eviction, tenant will receive a 5-Day Unlawful Detainer Notice after the 5-day Lease Violation Notice expires.

When the landlord comes to the court, they will need to bring the following:

- 1.) Copy of Lease agreement –
- 2.) Copy of the Three-Day Notice that was served.
- 3.) Proof of Service (Declaration of service)
- 4.) Copy of the Five-Day Unlawful Detainer
- 5.) Proof of service (Declaration of service)
- 6.) If it was served: Copy of the Five-Day Notice to Perform Lease Condition or Quit -7.) Proof of service (Declaration of service)
- 8.) \$61.00 for Landlord Affidavit filing fee.

HOW DOES A TENANT CONTEST A NON-PAYMENT OF RENT EVICTION NOTICE?

If a tenant has received a 7-Day Pay Rent or Quit Notice, the tenant has until the close of business on the 7th day following service of this notice to pay the rent, move, or file an affidavit with the Justice Court to request a hearing. Do not count the day of service. Also, do not count weekends, holidays, and other days when the court is closed. If the seventh day is a weekend or holiday, the tenant will then have until the next day the court is open.

If a tenant paid rent (including partial payment) or tried to pay rent in full, the tenant may have a legal defense to eviction. The landlord can refuse partial payment.

Late fees cannot exceed 5% of the monthly or weekly rent and can only be charged for the month the rent is late.

Under Nevada law, tenant may withhold rent only if (1) the dwelling has a habitability problem, (2) the tenant has provided written notice to the landlord, (3) the landlord has not fixed this problem or attempted to fix the problem within 14 days, and most important, (4) tenant must deposit the withheld rent with the court once the tenant files their tenant's affidavit.

HOW DOES A TENANT CONTEST AN EVICTION THAT DOESN'T INVOLVE RENT?

After the landlord issues a notice described above (except for non-payment of rent), the landlord must serve the tenant with a 5-Day Notice of Unlawful Detainer. Unlawful detainer essentially means that the tenant is now a holdover after the landlord has terminated tenancy based on the alleged breach or basis for the eviction.

In order to contest the eviction, the tenants have to file a Tenant's Affidavit with the Justice Court within the 5-day timeframe of the unlawful detainer notice.

The 5-Day Unlawful Detainer notice must advise the tenant that they have five business days to move or file a tenant's affidavit with the justice court to ask for a hearing on the matter. Do not count the day the tenant receives the notice, weekends, and holidays when the state court is closed. Also, if the fifth day is a weekend or holiday, the tenant has until the next day the court is open.

If the tenant does not file an affidavit and does not move, then the landlord can get an eviction order from the judge at the end of the 5 days without any further notice. The constable or sheriff will then serve the eviction order to the tenant and lock them out 24-36 hours after service of the Lockout Order.

The tenant can ask the court for more time (up to 10 days) to move under NRS 70.010 by filing a Motion to Stay the Eviction just to ask for more time to move.

HOW TO PREPARE FOR COURT IF THIS MATTER IS SCHEDULED FOR A HEARING

Prepare for hearing. Organize and clearly mark evidence, receipts, and books that you feel necessary to prove your case. Bring at least **three** copies of any evidence that you wish to present to the court (one for you, one for the judge, and one for the defendant). Print out text messages and copies of emails. **Do not expect the judge to read messages from your cell phone.**

The court assigns a court date at the time the affidavit is filed. The court date is NOT negotiable under normal circumstances. Contact the court at least one day prior to the assigned court date to confirm the date and time.

WHAT HAPPENS AFTER SUMMARY EVICTION IS GRANTED?

The Elko County Sheriff's Office will serve the eviction order on the tenant and lock them out 24-36 hours after service of the Lockout Order.

HOW MUCH IS THE FILING FEE? AFFIDAVIT AND APPLICATION FOR FORMAL EVICTION

\$61.00- AFFIDAVIT AND APPLICATION FOR FORMAL EVICTION

\$61.00-AFFIDAVIT AND APPLICATION FOR SUMMARY EVICTION

\$61.00 *° TENANT AFFIDAVIT

WHERE CAN I GET MORE INFORMATION?

WELLS JUSTICE COURT

1510 LAKE AVE; WELLS, NV 89835

775-752-3726

EMAIL: JPWELLS@ELKOCOUNTYNV.NET

WWW.CIVILLAWSELFHELPCENTER.ORG

WWW.NEVADALEGALSERVICES.ORG