

JUSTICE COURTS CLARK COUNTY

Las Vegas Justice Court
200 Lewis Avenue
Las Vegas, NV 89155-2511
(702) 671-3478

www.clarkcountycourts.us/index.html

North Las Vegas Justice Court
2428 N. Martin Luther King Blvd, Bldg A
North Las Vegas, NV 89032
(702) 455-7801

Henderson Justice Court
243 South Water Street
Henderson, NV 89015
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PLEASE NOTE: Laws are subject to change. Information contained in this pamphlet is based on the laws in effect at date of publication. 06/09

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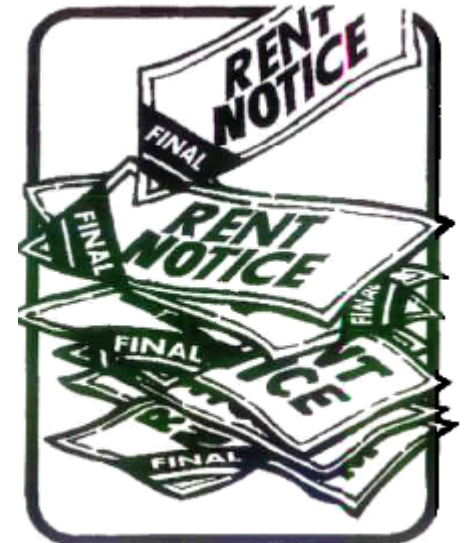
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You And Your Landlord

NON- PAYMENT OF RENT



ANSWERS TO THE MOST OFTEN
ASKED QUESTIONS ON
NON-PAYMENT OF RENT



www.nlslaw.net

The following information applies only to tenants in private housing. It does not apply to tenants in conventional public housing unless noted. If you are unsure if this information applies to you, feel free to contact a legal services agency or another attorney.

When can a landlord evict you for past due rent?

Once your rent is late, your landlord can serve you with a notice to 5 Day Notice to Pay Rent or Quit (vacate the premises). NRS 40.253. Most landlords must issue a 5 day notice. However, if you pay rent weekly (or more often) and you have not lived on the premises for more than 45 days, the landlord can give you a 4 day notice.

Once you receive the notice, you will have 5 (or 4) judicial days to pay rent, move out, or contest the eviction. Judicial days do not include weekends or holidays.

How long do I have to pay the rent?

If you pay the rent before the 5th (or 4th) judicial day following service of the notice, the landlord cannot proceed with the eviction. If you try to pay the rent but the landlord refuses, this may be a defense you can present in court. The landlord does not have to take partial payments. However, the landlord cannot refuse to accept rent because you have not paid collection costs, attorney fees, or court costs. The landlord can refuse to accept your rent, though, if you have not paid a reasonable charge for late fees, a dishonored check fee, or a security deposit.

How do you contest the notice to pay rent or quit the premises?

You can contest the pay rent or quit notice by filing a Tenant's Affidavit with the Justice Court having jurisdiction over the eviction (where the property is located). The Tenant's Affidavit is a sworn statement where you state your defense to the eviction. The Tenant's Affidavit must be filed with the court by noon on the 5th (or 4th) judicial day following the date of service of the notice.

Take 3 copies with you to court: the original for the clerk, one copy for yourself, and one file-stamped copy to mail to your landlord.

What does it cost to file a Tenant's Affidavit?

Filing fees are currently \$33. Filing fees can increase, though, and you should contact the court clerk's office to determine the correct filing fee.

If you cannot afford to pay the filing fee, you can file an application to have the court costs waived. If the judge grants the request, you will not have to pay the filing fees. Make sure you keep in contact with the court clerk so you know if the judge grants or denies your request to waive the filing fee.

What are my defenses?

In your Tenant's Affidavit, you will need to explain why you have not paid rent. While your defense will depend on your specific situation, the following are examples of some general defenses.

- The rent has been paid or you have tried to pay the rent and the landlord refused to accept it. You will want to attach receipts showing your rent is current or showing the correct amount of rent owed. You will also want to have the correct amount available to pay at your hearing.
- Your unit is uninhabitable or lacks essential services and you have withheld rent legally pursuant to NRS 118A.355 or NRS 118A.380, or the amount of rent should be reduced based on the conditions of the unit. NRS 118A.490.

You may access the self-help forms for filing a Tenant's Affidavit and an application to waive the filing fees on our website www.nlslaw.net.

What happens after I file my Tenant's Affidavit?

The Justice Court must grant you a hearing no matter what your affidavit says. NRS 40.253. The filing of the Tenant's Affidavit also stays (stops) the eviction proceedings until the hearing. Each jurisdiction varies in how hearings are set on evictions. In Las Vegas Justice Court the hearing will not be set until your landlord files its Affidavit of Complaint for Summary Eviction. The court will then notify you of the hearing date, usually by mail so you will want to make sure you check with the court periodically to see if a hearing is set. In contrast, the Reno Justice Court will usually schedule a hearing for the next business day.

At the hearing, the judge will decide whether you owe the rent or whether you have a valid legal defense to the eviction.

If the judge decides that you do not owe the rent, they will dismiss the case. If the judge decides you owe the rent and do not have a legal defense for failing to pay, the landlord's request for an eviction will be granted. The eviction order will be sent to the Sheriff or Constable who can lock you out within 24 hours.

If the judge decides to evict you, you can ask the judge to give you up to 10 extra days to move. NRS 70.010. The judge is not required to give you any extra time, but may choose to do so.

What happens when if I receive a 24-hour order?

At the end of 5 (or 4) judicial days, if you do not pay the rent owed or file a Tenant's Affidavit, the landlord can get an eviction order signed by a judge and proceed with the lockout.

With an eviction order the landlord can have the constable or sheriff lock you out within 24 hours. You do not get a full 24 hours to move. It does not matter whether you are sick, disabled or have children, you will be locked out within 24 hours.

Can the 24-hour order of removal be stopped?

If you receive an Order for Summary Eviction advising you the Sheriff or Constable will lock you out within 24-hours but never received any prior notice, you can file a Motion asking judge to stay (stop) the eviction and consider whether the eviction order should be set aside. Justice Court Rule of Procedure 60(c) allows the court to set aside an order where a party was not served with a proper notice. Rule 60(b) outlines other grounds to set aside an eviction order. Contact a legal services agency or a lawyer immediately for assistance.