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Tenant in Proper Person

**IN THE JUSTICE COURT OF _____ TOWNSHIP
IN AND FOR THE COUNTY OF _____, STATE OF NEVADA**

_____,
Landlord,

v.
_____,
Tenant.

CASE NO.:

**TENANT'S MOTION TO SET ASIDE
ORDER FOR SUMMARY EVICTION
PURSUANT TO NRCP 60(b)**

COMES NOW Tenant _____ (hereinafter "Tenant") in proper person and moves this Honorable Court to set aside the order for summary eviction in this matter pursuant to NRCP 60(b) and restore possession of the premises to the Tenant. This Motion is based upon the papers and pleadings on file herein, the attached points and authorities, and any argument that may be adduced at the time of hearing.

DATED: _____

Respectfully submitted,

TENANT IN PROPER PERSON

Address: _____

Phone: _____

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **A. The Order for Summary Eviction Should be Set Aside Because Defendant**
3 **Did Not File the Requisite Tenant’s Affidavit Due to Excusable Neglect.**

4 JCRCP 60(b) provides, in relevant part, that:

5 On motion and upon such terms as are just, the court may relieve a party or a party’s
6 legal representative from a final judgment, order, or proceeding for the following
7 reasons: (1) mistake, inadvertence, surprise, or excusable neglect...

8 The Justice Court may relieve a party from a final judgment or order for grounds of
9 “mistake, inadvertence, surprise, or excusable neglect (JCRCP 60(b)(1))”. *Nevada Indus. Devel.,*
10 *Inc. v. Benedetti*, 103 Nev. 360, 364, 741 P.2d 802, 805 (1987). A court has wide discretion in
11 determining what neglect is excusable and what is inexcusable. *Cicerchia v. Cicerchia*, 77 Nev.
12 158, 161, 360 P.2d 839, 841 (1961). The Nevada Supreme Court has held “. . . that the presence
13 of the following factors indicates that 60(b)(1) has been satisfied: (1) a prompt application to
14 remove the judgment; (2) the absence of an intent to delay the proceedings; (3) a lack of
15 knowledge of procedural requirements; and (4) good faith.” *Yochum v. Davis*, 98 Nev. 484, 486,
16 653 P.2d 1215, 1216 (1982). Finally, the “Court must consider the state's underlying basic policy
17 of deciding a case on the merits whenever possible.” *Rodriguez v. Fiesta Palms, LLC*, 428 P.3d
18 255, 257, 134 Nev. Adv. Op. 78 (2018) (*citing Stoecklein v. Johnson Elec., Inc.*, 109 Nev. 268,
19 271, 849 P.2d 305, 307 (1993)). [Explain why you did not file the Tenant’s Affidavit:]

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Based on the above, Defendant respectfully requests that the Court place this matter on calendar for a hearing, set aside the previous order of summary eviction entered on _____ (date), and restore possession of the premises to Tenant.

Pursuant to NRS 53.045: I declare under the penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED: _____

Respectfully submitted,

TENANT IN PROPER PERSON

Address

Address

Phone Number

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CERTIFICATE OF MAILING

I hereby certify that I mailed a true and correct copy of the above and foregoing
TENANT’S MOTION TO SET ASIDE ORDER FOR SUMMARY EVICTION TO the
Landlord first-class postage fully prepaid thereon, by placing the same in the United States Mail
at Las Vegas, Nevada, addressed as follows:

DATED: _____

SIGNATURE

PRINTED NAME