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**IN THE JUSTICE COURT OF \_\_\_\_\_ TOWNSHIP**

**IN AND FOR THE COUNTY OF \_\_\_\_\_, STATE OF NEVADA**

Name: \_\_\_\_\_,

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Landlord/Plaintiff,

vs.

Name: \_\_\_\_\_,

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Tenant/Defendant.

Case No.

Dept. No.

**TENANT’S AFFIDAVIT/DECLARATION IN OPPOSITION TO SUMMARY  
EVICTON  
(Lease Violation)**

The undersigned tenant, appearing in proper person, states that:

1. I am the tenant of the dwelling unit located at *(insert complete address of rental unit)* \_\_\_\_\_.

2. I rented the above unit from Landlord on or about \_\_\_\_\_ *(date)* with rent due monthly or for a shorter period of time.

3. Landlord is / is not subsidized by the federal government.

4. My rent is / is not subsidized by a public housing authority or government agency.

1           5.     I       received /       did not receive a 5-day Notice to Perform Lease Condition  
2 or Quit under NRS 40.2516 on \_\_\_\_\_ (date).

3           6.     I       received /       did not receive the 5-day Notice of Unlawful Detainer NRS  
4 40.254 on \_\_\_\_\_ (date).

5           7.     I deny that I have failed to perform a condition of my lease and have a legal defense  
6 to this eviction because: *(check only those sections that apply and explain in paragraph 8)*

7           The Court lacks jurisdiction over this eviction action because Landlord's 5-day Notice to  
8 Perform Lease Condition or Quit did not comply with Nevada law because it:

9                   Was not served on me as required by NRS 40.280;

10                   The notice contains no specific information regarding the acts that I am supposed  
11                   to have committed and instead makes a general allegation that I failed to perform  
12                   a condition of my lease;

13           The Court lacks jurisdiction over this eviction action because Landlord's 5-day notice that  
14 I was in unlawful detainer does not comply with Nevada Law because it:

15                   Was not served on me as required by NRS 40.280;

16                   Did not identify the court that has jurisdiction over this case;

17                   Did not notify me of my right to contest this matter by filing an affidavit with the  
18                   court;

19                   Did not notify me that the court may issue a summary order for my removal  
20                   directing the sheriff or constable to post the order in a conspicuous place on the  
21                   premises not later than 24 hours after the order is received by the sheriff, and the  
22                   sheriff or constable shall remove the tenant not earlier than 24 hours but not later  
23                   than 36 hours after the posting of the order;

24                   Did not notify me of my right to seek a 10 day stay of execution of the eviction.

25           The alleged lease violation has been cured. I am currently in compliance with the lease.

26           I deny that I committed a lease violation pursuant to NRS 40.2516 because:

27                   I deny the activities described in the notice are a violation of my lease agreement.  
28

1 The lease violation was minor and does not justify eviction. See *Roberts v. Second*  
2 *Judicial Dist. Court*, 43 Nev. 332, 185 P. 1067 (1920).

3 I deny that the activities in the notice occurred and therefore have a genuine dispute  
4 as to the material facts of this matter. The Nevada Supreme Court has mandated  
5 that, where an affidavit filed in response to a Notice of Unlawful Detainer raises a  
6 legal defense to the unlawful detainer based upon unresolved issues of material  
7 fact, the court must dismiss the summary eviction and the landlord must attempt  
8 to pursue restitution of the rental unit, if any, under NRS 40.290 to 40.420. *Anvui*  
9 *LLC v. GL Dragon LLC*, 123 Nev. 213, 216 (2007).

10 The allegations in this notice are untrue and this eviction is pretext because the  
11 Landlord is discriminating against me in violation of the Federal Fair Housing  
12 Act and Nevada law and/or retaliating against me for having engaged in certain  
13 protected acts in violation of NRS 118A.510.

14 I cannot be evicted because a moratorium on evictions protects me from eviction:

15 Landlord is attempting to use a lease violation notice to evict me for non-payment  
16 of rent which is not allowed until October 15 pursuant to the Governor's Directive 025;

17 Landlord is attempting to use a lease violation notice as pretext to evict me due to  
18 a positive COVID-19 diagnosis or Landlord believes I am experiencing symptoms of COVID;

19 I am not in default of my payment arrangement/repayment agreement as alleged;

20 I cannot be evicted because HUD has instituted a moratorium on evictions from  
21 homes with FHA mortgage loans and my landlord has an FHA mortgage.

22 8. Explain any of the defenses above or other legal defense to the eviction:  
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1           9. Pursuant to NRS 40.253(6), if an affidavit is filed in response to a Notice of  
2 Unlawful Detainer, and “if the court determines that there is a legal defense as to the alleged  
3 unlawful detainer, the court shall refuse to grant either party any relief, and . . . shall require that  
4 any further proceedings be conducted pursuant to NRS 40.290 to 40.420, inclusive.”  
5 Accordingly, if the affidavit raises a legal defense to the unlawful detainer, the Court is required  
6 to dismiss the summary eviction.  
7

8           WHEREFORE, the Tenant/Defendant prays for hearing in this court pursuant to NRS  
9 Chapter 40, and that this matter be dismissed at the hearing because I have raised a legal defense  
10 to the alleged unlawful detainer.  
11

12           **Request for a Stay.** In the alternative, if the court concludes that I have not raised  
13 a legal defense at the hearing held pursuant to this affidavit/declaration, I request a stay of  
14 execution under the authority of NRS 70.010(2) of 10 days in order to move. I need the additional  
15 time because:  
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19           **Declaration pursuant to NRS 53.045:** I declare under the penalty of perjury under the  
20 law of the State of Nevada that the foregoing is true and correct.  
21

22           **Affirmation pursuant to NRS 239B.030:** The undersigned does hereby affirm that the  
23 preceding document does not contain the social security number of any person.  
24

25           DATED: \_\_\_\_\_  
26

\_\_\_\_\_  
27 Tenant/Defendant Signature

\_\_\_\_\_  
28 Printed Name

**CERTIFICATE OF MAILING**

I hereby certify that on \_\_\_\_\_ (*date*) I served the foregoing TENANT'S  
AFFIDAVIT/DECLARATION IN OPPOSITION TO SUMMARY EVICTION upon the  
following person(s), by depositing a copy of the same in a sealed envelope in the United States  
Mail, postage pre-paid, to the following (insert Landlord's address below):

\_\_\_\_\_  
Landlord Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

DATED: \_\_\_\_\_

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Printed Name

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