

NON-PAYMENT OF RENT

Your Rights as a Tenant: A Fact Sheet from Nevada Legal Services, Inc.

When can a landlord evict you for past due rent?

Once your rent is late, your landlord can serve you with a 7 Day Notice to Pay Rent or Quit (vacate the premises). NRS 40.253. Most landlords must issue a 7 day notice.** Once you receive the notice, you will have 7 judicial days to pay rent, move out, or contest the eviction. Judicial days do not include weekends or court holidays.

**The 7 Day Notice period does not apply if you pay rent weekly (or more often) and you have not lived on the premises for more than 45 days. In this case, the landlord can give you a 4 day notice. Please substitute for 4 days for 7 days if this applies to you.



NEVADA LEGAL SERVICES
I N C O R P O R A T E D

LAS VEGAS OFFICE
Serving Clark, Lincoln, Nye, and Esmeralda Counties

530 S. 6th St.
Las Vegas, NV 89101
702-386-0404 / 866-432-0404
FAX: 702-388-1641

**LAS VEGAS
ADMINISTRATION OFFICE**
701 E. Bridge Ave. Suite #700
Las Vegas, NV 89101

RENO OFFICE
Serving all other counties and Tribal Members Statewide

204 Marsh Ave., Ste. 101
Reno, NV 89509
775-284-3491 / 800-323-8666
FAX: 775-284-3497

CARSON CITY OFFICE
209 No. Pratt Ave.
Carson City, NV 89701
775-883-0404
FAX: 775-461-7237

ELKO OFFICE
Serving Elko, Eureka, Humboldt and White Pine Counties
285 10th St.
Elko, NV 89801
775-753-5880
FAX: 775-753-5890

YERINGTON OFFICE
720 S. Main St., Unit A
Yerington, NV 89447
775-463-1222
FAX 775-463-1212

Call 711 for relay services

www.nevadalegalservices.org

How long do I have to pay the rent?

If you pay the rent before the 7th judicial day following service of the notice, the landlord cannot proceed with the eviction. Rent can include all reasonable and actual late fees. NRS 118A.150. Late fees now cannot exceed 5% of your periodic rent. 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.

Can I dispute the notice?

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 on the 7th judicial day following the date of service of the notice.

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

There is a filing fee for the Tenant's Affidavit, 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. You will file this at the same time you file the Tenant's Affidavit. 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.

Does my landlord get a copy of the Affidavit?

Yes, 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. If e-filing, you will need to print a copy to mail to your landlord and also file a Certificate of Service once mailed.

Resources

You can access additional information and forms on the NLS website at nlslaw.net.

For additional information and resources in Southern Nevada:
civillawselfhelpcenter.org.

For general forms, including fee waivers statewide:
selfhelp.nvcourts.gov.

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 due 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 will have to provide proof of the notice you provided your landlord.
- The amount on the notice is incorrect and includes amounts that are not rent or late fees.

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. For example, in Reno 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 phone so you will want to make sure you check with the court periodically to see if a hearing is set.

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, he or she 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 should post the order for removal in a conspicuous place on the premises not later than 24 hours after the order is received by the sheriff or constable. After posting it then the sheriff or constable can lock the tenant out not earlier than 24 hours but not later than 36 hours after the posting of the order by the sheriff or constable.

If the judge decides to evict you, you can ask for 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 if I don't file a Tenant's Affidavit?

At the end of 7 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 lock-out. With an eviction order the landlord can have the constable or sheriff lock you out 24-36 hours after posting the order. It will not matter whether you are sick, disabled or have children, you will be locked out after 24 hours.

TENANTS' RIGHTS CENTERS

Nevada Legal Services offers 2 Tenants' Rights Centers—one in our Las Vegas office and one in Reno. Please feel free to contact either Center for further assistance and information if you are a tenant facing eviction or other housing issues:

Las Vegas TRC: (702) 383-6095

Reno TRC: (775) 284-3491 x. 316 or
email to renotrc@nlslaw.net.