

# POST EVICTION

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

This fact sheet will focus on what happens after the court has ordered the eviction. We have other fact sheets related to what you can do when you have been served an eviction notice and before you have been officially evicted.



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### *What happens after I have been evicted?*

A court has to order the eviction before you can be locked out. If a court has ordered the eviction, the Sheriff/Constable will post the lockout order on your door within 24 hours of entry of the eviction order. The Sheriff/Constable will then execute the lockout order 24-36 hours after you are served with the order. Within that timeframe, you have a few options to try to stop or even overturn the eviction.

### *Can I appeal if the judge ordered the eviction at my hearing?*

After the eviction is ordered, you may file a Notice of Appeal with the court that issued the eviction order. In order to stop the eviction pending the appeal, you must post a bond. If you were evicted under the summary eviction procedure of NRS 40.253 that bond amount is set at \$250. NRS 40.385. If you were evicted using the formal process, you have to ask the court to set the bond amount but it cannot be more than 3 times the amount of the judgment. Posting bond operates to stay or stop the eviction and will allow you to continue living on the premises while the appeal is decided. You still must pay rent and all other terms and conditions of your rental agreement apply while the appeal is pending. You must file the Notice of Appeal within 10 days of the eviction order but it must be filed before you are evicted if you wish to stop the eviction from taking place.

### *What if I did not respond to the eviction notice?*

If you did not respond to the eviction notice and the landlord obtained the eviction order by default, you may want to instead file a Motion to Set Aside or Vacate the Eviction Order. JCRCP 60(b) or (c). You can file a Motion under Rule 60(c) if you were not served with the eviction notice prior to receiving the order. You can file a Motion under Rule 60(b) if you have a legal defense to the eviction and your failure to file the Tenant's Affidavit was due to mistake, inadvertence, surprise, or excusable neglect. In order to have the court stop the eviction while it considers the merits of your Motion, you must file a Motion to Stay Eviction along with the Motion to Set Aside the Eviction Order before you are actually locked out.

**\*\*Generally, you must file the Motion to Set Aside Eviction within 6 months pursuant to Rule 60. If you want to stop the eviction, though, you have to file the Motion and request the stay before you are locked out.**

If you just want more time to move, you can also file a Motion to Stay to request an additional 10 days to vacate pursuant to NRS 70.010.

# Resources

You can access additional information and forms on the NLS website at [nlslaw.net](http://nlslaw.net).

For additional information and resources in Southren Nevada visit: [civillawselfhelpcenter.org](http://civillawselfhelpcenter.org).

For general forms, including fee waivers statewide: [selfhelp.nvcourts.gov](http://selfhelp.nvcourts.gov).

## *What happens to my property after I vacate?*

Your landlord is required to safekeep your property for 30 days after you vacate the premises. Your former landlord must give you reasonable access to the premises for 5 days after you vacate or are evicted to pick up essential personal items such as baby formula, medication, clothes, etc.

Within the 30 day period, your landlord must provide reasonable access to retrieve the property. During this time, the property does not have to remain on the premises. The landlord may have it moved to a storage facility and charge you for reasonable costs of inventory, moving and storage.

- If the landlord does not provide you reasonable access to retrieve your essential person items, you may file a complaint within 5 days of the eviction and you may be able to recover up to \$2,500 in damages.

- If the landlord does not allow you reasonable access to retrieve your personal property within the 30 day period or attempts to charge you rent or fees other than reasonable costs of inventory, moving and storage, you may file a Motion to have your landlord release your property to you within 20 days after the eviction or your landlord's wrongfully withholding of your property.

## *What if I was evicted some time ago? Can the eviction be removed from my record?*

Yes. You may be able to have the eviction record sealed. The legal effect is that the eviction is deemed never to have occurred. Therefore, when you apply for new rental housing, you can legally put on the application that you have not been evicted. Additionally, eviction notices are themselves not available for public inspection and should not be released to the public by a court, sheriff/constable, or other government entity. There are multiple ways an eviction can be sealed under NRS 40.2545:

- Automatic:
  - ◇ A court orders a summary eviction dismissed;
  - ◇ 10 judicial days after an eviction has been denied;
  - ◇ 31 days after a Tenant files a Tenant's Affidavit and the Landlord takes no action.
- Discretionary: A court may order a record sealed
  - ◇ If the former landlord and tenant agree to seal the eviction record;
  - ◇ If an eviction is set aside pursuant to Rule 60;
  - ◇ The tenant files a motion to seal an eviction record and shows that sealing the eviction is in the interests of justice and not outweighed by the public's interest in knowing the information upon consideration of the following factors:
    - Circumstances beyond the control of the tenant led to the eviction;
    - Other extenuating circumstances under which the order of eviction was granted; and
    - The amount of time that has elapsed since the eviction.

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## TENANTS' RIGHTS CENTERS

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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](mailto:renotrc@nlslaw.net).