



LEGAL BRIEF

LANDLORD-TENANT LAW

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This handout discusses the following most common issues arising in legal assistance:

- *Security deposits*
- *Rent increases*
- *Entry by the landlord*
- *Failure of landlord to maintain the rental premises in a habitable condition*
- *Failure of landlord to provide essential services*
- *Lockouts and other illegal acts by landlords*
- *Eviction for non-payment of rent*
- *Personal property left behind after eviction or abandonment*
- *Starting a landlord/tenant court action*
- *Answering an action*
- *Alternate solutions*

For additional information, please visit the Clark County Civil Law Self-Help Center website for more information: <https://www.lacsn.org/our-services/ask-a-lawyer/self-help-center-forms>. The Civil Law Self-Help Center has free forms you can download and use for many of the issues addressed in this handout. If you have questions not addressed by this handout, you should consult with a Nevada-licensed attorney or schedule a legal assistance appointment.

I. Security Deposits

A security deposit is a sum of money paid to the landlord to cover potential unpaid rent, cleaning costs, or damages beyond normal wear and tear.

- **Maximum Amount:** A landlord cannot require a deposit exceeding three months' rent (NRS 118A.242(1)).
- **Non-Refundable Fees:** Only a reasonable cleaning fee can be non-refundable, and this must be explicitly stated in the lease. Any other security deposit cannot be designated as non-refundable.
- **Return of Deposit:** The landlord must refund the remaining portion of the security deposit within 30 days of the tenancy ending. The landlord must provide an itemized, written statement of any deductions (NRS 118A.242(4)).
- **Improper Withholding:** If the landlord fails to return the deposit within the 30-day period, a tenant may sue for the full amount of the deposit plus damages.

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II. Rent Increases

A landlord may not increase a tenant's rent without providing proper written notice. For periodic tenancies (such as month-to-month), a landlord must give the tenant written notice at least 60 days before the first rental payment to which the increase applies. For tenancies shorter than one month, a 30-day notice is required (NRS 118A.300).

III. Entry by the Landlord

A landlord has a right to enter the rental property under certain circumstances but must provide at least 24 hours' notice of intent to enter, unless an emergency exists. The entry must be at a reasonable time during normal business hours (NRS 118A.330).

A tenant shall not unreasonably withhold consent for the landlord to enter the property to:

- Inspect the premises;
- Make necessary or agreed repairs, decorating, alterations or improvements;
- Supply necessary or agreed services;
- Show the unit to prospective or actual purchasers, mortgage companies, tenants, workers, contractors or other persons with a true interest in inspecting the premises;
- When the tenant has abandoned or surrendered the premises;
- If the landlord has given the tenant a fourteen-day (14) written notice telling the tenant to make basic repairs, clean, or things of that nature, or the landlord would enter the property and fix the problem; or
- Pursuant to court order.

IV. Failure of Landlord to Maintain the Rental Premises in a Habitable Condition

Landlords are required by law to maintain rental units in a "habitable condition" (NRS 118A.355). A property is not habitable if it violates health or safety codes or substantially lacks:

- Effective waterproofing and weather protection;
- Plumbing facilities in good working order;
- Water supply with hot and cold water that is connected to an approved sewage disposal;
- Adequate heating facilities;
- Electrical lighting, outlets, and wiring;
- Adequate removal of garbage;
- Building, grounds, and other areas under the landlord's control that are clean, sanitary, and reasonably free from an accumulation of debris, filth, rubbish, garbage, rodents, insects, and vermin;
- Floors, walls, ceilings, stairways, and railings maintained in good order; or
- Ventilating and air-conditioning maintained in good order if supplied by the landlord.

If a landlord fails to maintain a habitable condition, the tenant must provide a written 14-day notice to the landlord to make the repairs. If the landlord fails to act, the tenant may have several remedies, including repairing and deducting (for minor issues) or terminating the lease and suing for damages (for major issues). Tenants must be cautious and should not be the cause of the condition.

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If the cost of making the rental property habitable exceeds \$100 or one month's rent (whichever is greater), then the tenant can provide the landlord with written notice that specifies the problem and advises him or her that the rental agreement will terminate if the landlord does not remedy the problem or use his or her best efforts to remedy the problem within 14 days of receipt of the notice. If, after receipt of the tenant's written notice, the landlord fails to fix the problem or make reasonable efforts to do so, the tenant may terminate the lease and go to court to recover actual damages and any other relief the court deems appropriate. If the rental agreement is terminated in such a manner, the landlord must return all prepaid rent and security normally recoverable by the tenant.

It is important to note that the courts will ultimately decide whether the premises was habitable given the problems that existed during the period complained of by the tenant. Therefore, tenants **must be very cautious** when deciding to make deductible repairs or attempting to terminate their tenancy on the basis that their rental premises is uninhabitable. Tenants must also not be responsible for the problem through their own negligence or willful conduct, or that of a member of the tenant's household or any other person on the premises with the tenant's consent for the benefits of this provision to apply. (NRS 118A.350(2); NRS 118A.360(3)).

V. Failure of the Landlord to Provide Essential Services

Essential services include heat, air-conditioning, running water, electricity, gas, and functioning door locks. If a landlord willfully or negligently fails to provide an essential service after the tenant gives written notice, the landlord has 48 hours (excluding weekends and holidays) to fix the problem.

The term "habitable living conditions" is broader and encompasses more issues than "essential services." This means that a tenant may have a non-essential service that renders the property uninhabitable. For example, if the building is infested by insects, it is a non-essential service because it does not involve heat, air-conditioning, running water, hot water, electricity, gas, or a functioning door lock, even though it renders the property uninhabitable. On the other hand, if the heating facilities go out, the tenant has an essential service that renders the property uninhabitable.

If the landlord fails to act, the tenant may:

- Withhold rent without needing to pay it into a court escrow account.
- Procure the essential service and deduct the reasonable cost from the rent.
- Find substitute housing and sue the landlord for the cost difference.
- Sue the landlord for damages.

Nevada law provides avenues through which tenants may seek relief in cases in which their landlords have covenanted, or promised, in the rental agreement to provide essential services such as air conditioning, gas, functioning door lock, electric, heat, running water, or hot water, but willfully or negligently fail to do so. Before taking any action, however, **the tenant must first give the landlord written notice that clearly identifies the problem.** (NRS 188A.380). Make sure to mail your written notice certified mail, return receipt requested, so you have proof of mailing.

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The tenant, or a member of his or her household or any other person on the premises with the tenant's consent, must not have willfully or negligently caused the problem complained of for the benefits of this provision to apply. (NRS 118A.380(5)).

VI. Lockouts and Other Illegal Acts by Landlords

Self-help evictions" are illegal in Nevada. A landlord may not change the locks, shut off utilities, or remove a tenant's property to force them out. A landlord can only deny access if they believe the property has been abandoned or they have a valid court order for eviction. A tenant who is illegally locked out can sue to regain access and for actual damages (NRS 118A.390).

The remedies for an illegal lockout include:

- Terminating the rental agreement;
- Suing for actual money damages; and
- Forcing the landlord to let the tenant back into the property. *See* NRS 118A.390.

If the tenant wants to force the landlord to let the tenant back into the property or to maintain an essential service, the tenant must file a verified complaint for expedited relief within **5 judicial days** (no weekends or holidays) of the landlord's unlawful act. (NRS 118A.390(4)).

VII. Eviction for Non-Payment of Rent

Nevada law is very favorable to landlords when it comes to eviction for non-payment of rent. If a tenant fails to pay rent, the landlord may begin the eviction process.

1. Notice: The landlord must serve the tenant with a Seven-Day Notice to Pay Rent or Quit. This notice must be a written demand for the exact amount of rent owed and state that the tenant must either pay the rent or move out within seven judicial (business) days (NRS 40.253).
 - The 7-day countdown begins the day *after* service.
 - The notice can include reasonable late fees, provided they are in the lease and do not exceed 5% of the monthly/weekly rent.
2. Tenant's Options: Within those seven judicial days, the tenant can:
 - Pay the full amount of rent owed.
 - Move out.
 - File an affidavit/answer with the Justice Court to contest the eviction.
3. Eviction Order: If the tenant does not pay, move, or file an answer within the time frame, the landlord can file for a summary eviction order. Once signed by a judge, this order is typically given to the constable, who can then remove the tenant from the property within 24-36 hours.

VIII. Personal Property Left Behind after Eviction or Abandonment

If a tenant leaves personal property behind after moving out, the landlord must safely store the property for 30 days (NRS 118A.460). The landlord may charge reasonable moving and storage costs. After 30 days, and after making a reasonable effort to notify the tenant, the landlord may dispose of the property to recover their costs. The landlord may not hold the personal property of the tenant to secure unpaid rent, absent a court order (NRS 118A.520).

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IX. Special Protections for Military Personnel (SCRA)

In addition to state law, active-duty servicemembers have special protections under the federal Servicemembers Civil Relief Act (SCRA).

- **Early Lease Termination:** You can terminate a residential lease early and without penalty if you receive military orders for a Permanent Change of Station (PCS) or to deploy for 90 days or more.
 - **Procedure:** You must deliver written notice to your landlord and include a copy of your orders.
 - **Effective Date:** The lease terminates 30 days after the first date on which the next rental payment is due after the notice is delivered.
- **Protection From Eviction:** If your rent is below a certain monthly amount (adjusted annually by federal law), a landlord cannot evict you without a court order. If the landlord sues for eviction, you can ask the court for a temporary stay (delay) of up to 90 days if your military service materially affects your ability to pay rent or appear in court. The court has the final say and may still order you to pay a portion of the rent during this period.

X. Starting a Landlord/Tenant Court Action

In the city of Las Vegas, Small Claims actions are filed in Justice Court (“Small Claims Court”). Small Claims Court can only grant monetary relief (like a security deposit refund). It cannot grant injunctive relief (non-monetary relief).

If you need a judge to order your landlord to do something (like make repairs), you would need to file in Civil Division of the Justice Court. However, Justice Court may be the right place to go if you want your security deposit refunded.

XI. Answering an Action

If you receive an eviction notice, you must act quickly.

Step 1: Understand How The Eviction Process Works

Getting an eviction notice can be an overwhelming experience. Taking the time to understand how the eviction process works will help you evaluate your options so that you can make the best decision possible under the circumstances.

Step 1(A): How Is Your Landlord Trying To Evict You?

You first need to determine how your landlord is trying to evict you. This is important as what you file and how much time you have to take action will depend on whether your landlord is trying to evict you through: the Summary Eviction Process or the “Formal” Eviction Process.

If your landlord is using the Summary Eviction Process, as most landlords do, he or she may send you any one of the following types of notices:

- Pay Rent or Quit (leave the rental property) (You will receive a single 5-day notice)
- Nuisance, Assignment/Subletting, or Unlawful Business (You will receive a 3- day notice that will be followed by a 5-day “Unlawful Detainer” notice)

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- Lease Violation(You will receive a 5-day notice that will be followed by a 5-day “Unlawful Detainer” notice)
- “No Cause” (You will receive a 7 or 30-day notice, depending on whether you pay rent by the week or month, followed by a 5-day “Unlawful Detainer” notice)
- Tenancy-at-Will (You will receive a 5-day notice that will be followed by a 5- day “Unlawful Detainer” notice)

If your landlord is using the “formal” eviction process, as banks which have foreclosed on a residence and mobile home parks are generally required to do, he or she will send you an eviction notice that will be followed by a summons and complaint.

Step 1(B): Choose How To Respond

When you receive an eviction notice(s) or an eviction notice followed by a complaint, your options are generally to:

- Move;
- Comply with the notice (pay rent or remedy the lease violation); or
- File an Answer with the court.

If your landlord is using the summary eviction process and you file an Answer, the court will hold a hearing, usually within a week, to determine whether an order for summary eviction should be granted.

If your landlord is using the “formal” eviction process, your landlord may serve you with an “Order to Show Cause” or Notice of Trial Setting that already schedules an eviction hearing.

Step 2: Determine How Much Time You Have To Take Action

How much time you have to act in response to an eviction notice, depends on how much time is given in the notice. If the notice tells you to take action in 10 days or less (as nearly all eviction notices will), you count *judicial* days. That is, you do not count: (1) the day of service, (2) weekends, or (3) legal holidays. If the notice tells you to take action in 11 days or more (i.e., a 30-day “no cause” notice), you count *calendar* days. That is, you do not count the day of service but you do count weekends and legal holidays.

Step 3: Responding To The Notice

Upon receipt of the Notice, the tenant may:

- Pay the rent demanded;
- Move;
- File an Answer with the Justice Court that is referenced in the notice; or
- File a Motion to Stay, in which the tenant asks that the court delay the eviction for up to 10 days pursuant to NRS 70.010. (Please note, the tenant may file the Motion to Stay instead of filing an Answer or may file a Motion to Stay after the eviction order is entered)

The tenant should do one of the above no later than noon of the fifth full judicial day following the day of service.

XI. Alternate Solutions

Finally, if you are seeking relief from a landlord/tenant problem but wish to avoid lawsuits, you may want to consider utilizing the Neighborhood Justice Center (702-455-3898). The Neighborhood Justice Center

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offers free mediation services to Las Vegas residents. While results are not guaranteed, this service provides an attractive means by which you can seek to resolve disputes while avoiding the costs and time-delays of the court system. However, keep in mind that both parties to the dispute must be willing to use the service and to compromise for the service to be of any real benefit to you.

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