

Our court has provided forms and instructions as a courtesy only. The court is not liable for errors contained herein or for direct, indirect, special, or consequential damages in connection with furnishing these documents. Many law matters involve complex and valuable legal rights. Our forms and instructions are basic and general. They do not fit all situations. To protect your rights, you should consider consulting with an attorney. Court employees are prohibited from providing legal advice. They cannot tell you whether you should sue someone, recommend any specific attorney or law firm, give you an opinion about your case, or predict how a judge might rule. They cannot talk to the judge on your behalf or tell you what words to use in your court papers or at a court hearing.

Forms are available on the court's website and at 800 South C Street, Virginia City, Nevada 89440.

There are filing fees. If a party cannot afford a filing fee, he/she must submit an Application to Waive Filing Fees. The judge will review the application and decide whether to waive filing fees. (The time between filing the application and the judge's decision to grant a waiver of fees is not included in the response time calculation.)

RESIDENTIAL EVICTIONS - BASIC GUIDE

TYPES OF SUMMARY EVICTIONS

The forms below are available on the court's website.

Eviictions for non-payment of rent require only one notice to the tenant before filing a Complaint for Summary Eviction also known as a "lock-out."

All other evictions require a second notice if the tenant fails to comply with the first notice. The second notice is called a "Five-Day Notice of Unlawful Detainer." The second notice is required before a landlord can file a Complaint for Summary Eviction with the court.

Seven-Day Notice to Pay Rent or Quit

This notice instructs the tenant to either pay rent or leave. If the tenant does not leave, the landlord must file a Complaint for Summary Eviction with the court.

Three-Day Notice for Nuisance, Waste/Subletting, Unlawful Business, or Drug Violation

If the tenant does not leave, the landlord must serve a second five-day notice for unlawful detainer. If the tenant does not leave after the second notice, the landlord must file a Complaint for Summary Eviction with the court.

Five-Day Notice for Lease Violation

This notice will direct the tenant to either fix the violation or leave. If the tenant does not fix the violation and remains at the rental, the landlord must serve a second five-day notice for unlawful detainer. If the tenant does not leave after the second notice, the landlord must file a Complaint for Summary Eviction with the court.

Five-Day Tenancy-at-Will Notice

(A tenant-at-will is a tenant who occupies the premises with the consent of the landlord (either express or implied) for an indefinite period of time with no periodic rent paid or reserved where the tenancy can be terminated at any time at the will of either party.) This notice will tell the tenant that the landlord is terminating the tenancy-at-will, and the tenant must leave. If the tenant does not leave, the landlord must serve a second five-day notice for unlawful detainer. If the tenant does not leave after the second notice, the landlord must file a Complaint for Summary Eviction with the court.

No Cause Notice

For month-to-month rentals, a thirty-day notice is served. If the tenant pays rent weekly, a seven-day notice is served. If the tenant does not leave, the landlord must serve a second five-day notice for unlawful detainer. If the tenant does not leave after the second notice, the landlord must file a Complaint for Summary Eviction with the court.

SERVING THE EVICTION NOTICE

Eviction notices must be served (delivered to the tenant) by the sheriff, a licensed process server, or an agent of an attorney licensed in Nevada in one of the three following ways:

1. The tenant is served personally by the sheriff, licensed process server, or an agent of an attorney licensed in Nevada. (NRS 40.280(1)(a))
2. If the tenant is not at the rental property, a copy may be left with a person “of suitable age and discretion” (at least 14 years old) AND a copy must be mailed to the tenant at the address of the rental property (NRS 40.280(1)(b) *(A mail receipt will serve as written proof that the eviction notice was mailed to the tenant.)*)
3. If no person of suitable age or discretion can be found at the rental property, a copy must be posted in a conspicuous place on the rental property AND a copy must be mailed to the tenant at the address of the rental property. (NRS 40.280(1)(c). *(A mail receipt will serve as written proof that an eviction notice was mailed to the tenant.)*)

NRS 40.280 allows service of a notice by method number 2 above (leaving the notice with a person of suitable age at the rental property and mailing a copy to the tenant) only if the tenant "is absent from his place of residence."

The third method (posting the notice on the rental property and mailing a copy to the tenant) is only permitted when "a person of suitable age or discretion cannot be found" at the rental property.

If the tenant does not vacate after the first notice, you must serve a second notice called a “Five-Day Notice of Unlawful Detainer.” As with the first notice, the second notice must be properly served. *A Seven-Day Notice to Pay Rent or Quit does not require a second notice before filing a Complaint for Summary Eviction.*

The landlord will be notified by the court if the tenant contests the eviction and files an answer. A hearing will be scheduled. In preparation for the hearing, make copies of the eviction documents for the tenant and the court.

If the tenant neither contests nor vacates, before the tenant can be removed, the landlord must file a Complaint for Summary Eviction with documentation showing that all notices have been properly served. If granted by the court, the sheriff will be ordered to remove the tenant from the premises.

CALCULATING TIME

For a landlord, serving a notice too early may result in denial of an eviction. For a tenant, responding to a notice too late allows the landlord to proceed with an eviction.

A “judicial day” means the court’s regular business hours. The Virginia Township Justice Court is open Monday through Friday, 8:00 a.m., to 5:00 p.m. “Judicial days” do not include Saturdays, Sundays, holidays, or days when the court is closed.

The day of service is not included in the calculation. For example, if the tenant has three “judicial days” to vacate the premises, do not count the day of service, and wait until *after the end* of the third “judicial day” to have the next notice served. If a landlord serves a Five-Day Notice of Unlawful Detainer, (second notice), do not count the day of service and wait until the 6th judicial day to file a Complaint for Summary Eviction. If the tenant chooses to respond, documents must be filed with the court before expiration of the last day indicated on the notice. If the last day is not a “judicial day,” the tenant has until the end of the next “judicial day” to respond.

On a Thirty-Day No Cause Notice to Quit, calendar days are counted. Do not count the day of service. If the 30th day is on a Saturday, Sunday, holiday, or a day when the court is closed, the next day becomes the 30th day. Wait until after the expiration of the 30th day before filing the second notice.

If the landlord decides to proceed with a Complaint for Summary Eviction, it must be filed within thirty days after the eviction notice expires. If the landlord waits more than thirty days, the court will require the landlord to serve a new eviction notice.

If an Order for Summary Eviction (also known as a 24-hour lock-out) is issued by the court, time is calculated by the hour. The hours begin counting immediately upon proper service. If the 24-hour period ends on a Saturday, Sunday, legal holiday, or a day when the court is closed, the period continues to run until the same time on the next day that is not a Saturday, Sunday, legal holiday, or day when the court is closed. If the tenant wants to contest or stay (delay) the eviction, the tenant must file a motion with the court before expiration of the time stated in the order.

TENANT'S ANSWERS TO EVICTIONS

The notice will tell the tenant how and when to respond. The tenant should read the notice carefully. The forms below cover the most basic eviction notices. The forms are available on the court's website.

Tenant's Affidavit in Opposition to Eviction for Non-Payment of Rent.

Tenant's Affidavit in Opposition to Eviction for Nuisance and Other

Tenant's Motion to Stay a Complaint for Summary Eviction also known as a 24-hour lock-out
The landlord will be notified by the court if the tenant contests the eviction and files an answer. A hearing will be scheduled. In preparation for the hearing, make copies of the eviction documents for the landlord and the court.

Hearing is held: At the hearing, the judge will determine has raised a legal defense to the eviction and whether there's a genuine dispute of material fact between the landlord and the tenant.

APPEAL: Either party may appeal the court's order by filing a notice of appeal within 10 judicial days after the entry of order. A stay of execution may be obtained by filing a bond in the amount of \$250 to cover expected costs of appeal. A tenant who retains possession of the premises on appeal must still pay rent. If a tenant fails to pay rent during an appeal process, the landlord can serve a new notice for failure to pay rent.