ADKT 567

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Via Email (nvscclerk@nvcourts.nv.gov)

Elisabeth A. Brown
Clerk of the Supreme Court
201 South Carson Street
Carson City, Nevada 89701

FILED

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ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY
DEPUTY CLERK

Re: Additional Written Comments Regarding ADKT 567

Dear Ms. Brown:

Please allow this to serve as additional written comments concerning the circulation of the Proposed Temporary Residential Summary Eviction Mediation Rules.

There are numerous questions that remain unanswered regarding the Proposed Residential Summary Eviction Mediation Rules. First, what are the "government-sponsored rental assistance programs" that are referred to and required to be provided information about?

Second, the proposed rules do not account for or address situations where there is more than one tenant on a lease. If the tenants are married, there is less of an issue, but there are significant questions if the tenants are merely roommates. For example, if the tenants are not married do both lease holders need to appear at the mediation? What if one tenant appears and agrees to vacate? The rules do not appear to take those sorts of situations into account.

Third, while the rules require the Tenant to state whether they have previously entered into a repayment arrangement with the landlord for rental arrearages, the inclusion of that requirement has no effect. This seems to be more of checking off a box without any real consequence. If the tenant has previously entered into a payment arrangement with the landlord and has failed to pay its rent in accordance with that arrangement, they should not be allowed to delay an eviction for those failures by requesting mediation.

Fourth, the practical mechanism of enforcing any settlement agreement reached (as discussed in Section 7(d)(3)) is unclear and needs additional explanation. For instance, the rules say a motion to enforce the settlement agreement must be filed and it will be addressed "by the court." Is that going to require an entirely new matter to be commenced in Justice Court? Is the matter

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intended to be heard under the same case number as the eviction? If it is intended to be the latter then that will likely require Justice Courts to revise their procedures since right now, an eviction is either granted or denied. If it is denied, the case is closed and automatically sealed. If it's granted it remains on record. Not being clear on how a motion to enforce settlement will be heard and docketed poses a very real and practical problem that needs to be addressed. Furthermore, in Las Vegas Justice Court, evictions are heard by a hearing master. Is that person going to be responsible for deciding motions to enforce settlement agreements or will it be resolved by a Justice of the Peace?

Additionally, presently, if a landlord locks a tenant out of a dwelling, the tenant can file a Verified Complaint for Expedited Relief for the Removal or Exclusion of a Tenant requesting to be allowed back into the unit and those motions are scheduled to be heard within 3 business days of being filed (NRS 118A.390(6)). Section 7(g) provides that motions to enforce mediation settlement agreements must be heard within 7 – 10 judicial days. That time frame should be amended to be consistent with NRS 118A.390(6) and require such motions to be heard within 3 judicial days so that the landlord has the same right to recover possession of the property on an expedited basis, as the tenant would have if they were improperly locked out.

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TAM:cjh