

IN THE SUPREME COURT OF NEVADA

FILED

AUG 30 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

IN THE MATTER OF THE)
AMENDMENT OF PART 6 OF)
LAS VEGAS JUSTICE COURT)
LOCAL RULES OF PRACTICE)
RELATING TO SUMMARY EVICTIONS)

ADKT NO.: 602

WHEREAS, the Supreme Court of Nevada has previously approved various local rules contained in the Las Vegas Justice Court Local Rules of Practice (LVJCLRP); and

WHEREAS, the Court hereby proposes to amend LVJCLRP 6.2 and 6.4; and

WHEREAS, the Court proposes to enact a new rule, Rule 6.8, in Part 6 of the LVJCLRP which will assist the Court in managing an Eviction Diversion Program; and

WHEREAS, Rule 83 of the Justice Court Rules of Civil Procedure provides that copies of any proposed rule changes “shall upon their promulgation be furnished to the Supreme Court, but shall not become effective until after approval by the Supreme Court and publication”;

THEREFORE, the Las Vegas Justice Court hereby petitions the Supreme Court of Nevada for approval of the amendments to Part 6 of the LVJCLRP as shown in “Exhibit A” attached hereto.

Dated this 23rd day of August, 2022.

Melissa A. Saragosa
CHIEF JUDGE MELISSA SARAGOSA
LAS VEGAS JUSTICE COURT

RECEIVED

AUG 29 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
DEPUTY CLERK

EXHIBIT A

(Language in blue italics is proposed to be added.)

PART 6. SUMMARY EVICTIONS

Rule 6.1. Definitions.

As used in Part VI of these Rules, unless the context otherwise requires, the words and terms below have the following meanings:

- (a) "Answer" means the Tenant's Affidavit in Opposition to Summary Eviction.
- (b) "Complaint" means the Landlord's Affidavit of Complaint for Summary Eviction.
- (c) "Eviction Notice" means a notice served pursuant to NRS 40.253(1), 40.254(1), or 40.2542(1).
- (d) "Motion to Stay" means a motion to stay the execution of any judgment, including any judgment in a case of forcible or unlawful detainer, pursuant to NRS 70.010.
- (e) "Motion to Set Aside" means a motion to set aside an order for summary eviction that has already been issued.
- (f) "Surrender Notice" means a notice served pursuant to NRS 40.251, 40.2514, or 40.2516.
- (g) "Uninhabitability" has the meaning ascribed to it in NRS 118A.290.

Rule 6.2. Summary evictions.

- (a) A surrender notice will be unenforceable if an eviction notice pursuant to NRS 40.254(1) is not served within 30 calendar days after the expiration of the surrender notice, and the landlord will be required to have a new surrender notice served, except when a tenant has been given an additional 30 calendar days pursuant to NRS 40.251(2).
- (b) An eviction notice will be unenforceable if a complaint is not filed within 45 calendar days after ~~an answer has been filed with the Court~~ *the expiration of the eviction notice period*, and the landlord will be required to have a new eviction notice served, as well as any prior surrender notice.
- (c) If a tenant has filed an untimely answer contesting an eviction notice, the court will not consider it.
- (d) If a tenant has filed a timely answer contesting an eviction notice, the court will not schedule a hearing on the summary eviction until the complaint is filed with the court. If no complaint is filed, the case will be administratively closed.
- (e) If the tenant has filed a timely answer contesting an eviction notice, and the landlord has filed a timely complaint pursuant to subsection (b), a hearing on the summary eviction will be held no sooner than seven calendar days and no later than fourteen calendar days after the filing of the complaint, unless the court otherwise finds good cause. The court will notify the parties of:
 - (1) The hearing date, time and location, and
 - (2) The availability of mediation prior to the hearing date.
- (f) All summary eviction documents must comply with the following requirements:
 - (1) Surrender and eviction notices served upon tenant.
 - (A) All *landlords and tenants are required to use the* surrender and eviction notices *forms approved by the Court and made available to the public on the Civil Law Self Help Center website at civillawselfhelpcenter.org*. ~~must be typed or clearly legible.~~

(B) An eviction notice must advise the tenant that the Las Vegas Justice Court (or some similar specific reference) has jurisdiction over the matter. An eviction notice that merely refers to “the justice of the peace,” or “Clark County Courthouse,” or some other nonspecific designation is not valid.

(C) An eviction notice must advise as to the availability of electronic filing of the answer and include the web address for access.

(2) Tenant’s Answer. *All tenants must use the tenant’s affidavit in opposition to summary eviction form approved by the Court and made available to the public on the Civil Law Self Help Center website at civillawselfhelpcenter.org or through the Odyssey Guide & File interview.* A tenant’s answer must include an e-mail address for the tenant, if the tenant has an e-mail address.

(3) Landlord’s Complaint. *All landlords must use the complaint for summary eviction form approved by the Court and made available to the public on the Civil Law Self Help Center website at civillawselfhelpcenter.org.* A landlord’s complaint must include an e-mail address for the landlord, if the landlord has an e-mail address.

(g) If a landlord has had more than one eviction notice served to the tenant within one rental period, and the tenant has filed a timely answer contesting a notice with respect to any of those notices, the Court may consolidate for hearing all pending notices and answers.

(h) Unless otherwise ordered by the Court, an order for summary eviction that has not been executed by the constable will expire 30 days after the order is filed.

(i) If a summary eviction case is sealed, no further filings will be accepted in that case.

(j) Use of surrender or eviction notices other than those approved by the Court may result in a dismissal of the case.

(k) A tenant’s answer or affidavit in opposition to summary eviction that is not on the Court-approved form may be stricken as non-conforming with this Rule.

(l) A landlord’s complaint for summary eviction that is not on the Court-approved form may be stricken as non-conforming with this Rule.

Rule 6.3. Rent deposits relating to claims of uninhabitability under NRS 118A.355.

(a) A tenant who asserts a defense of uninhabitability to a claim of nonpayment of rent and who is withholding rent pursuant to NRS 118A.355(1)(d) must post the withheld rent with the Las Vegas Justice Court as provided in this rule. The deposit(s) may be paid by cash, money order, debit card, or a cashier’s check. Deposits may not be paid by personal check or credit card.

(b) At the time that the tenant files an answer to the eviction action, the tenant must indicate in the answer that the tenant has withheld rent pursuant to NRS 118A.355 and must deposit with the Las Vegas Justice Court all rent that has become due.

(c) If additional rent becomes due while the underlying case is pending, a tenant who is withholding rent under this rule shall continue to deposit the additional rent as required by NRS 118A.355 unless otherwise ordered by the Court.

Rule 6.4. Stay of Eviction for an Eviction Order.

(a) A tenant who requests a delay in the ~~issuance~~ *execution* of an order for summary eviction *or lockout* shall include such request in the Answer.

(b) If an order for summary eviction has already been granted, and a tenant is seeking a stay of execution of that order *or lockout*, the tenant may file a Motion to Stay prior to the execution of

the order. Any Motion to Stay filed after execution of the order will be deemed moot and will be denied summarily.

(c) Upon review of a Motion to Stay that is filed before the execution of an order for summary eviction, the Court may set the Motion to Stay for hearing, or the Court may rule upon the Motion to Stay summarily.

(d) If the court elects to hear a Motion to Stay pursuant to subsection (c), the hearing must be scheduled *on the Court's first available hearing date, but not sooner than ten calendar days to ensure* ~~within seven to ten calendar days from the date the Motion is approved for hearing, or within a shorter time period if the Court determines~~ that all parties can be properly noticed of the hearing.

(e) Once a Motion to Stay has been ruled upon, a subsequent Motion to Stay alleging the same grounds may be summarily denied.

(f) A Motion to Stay that is filed after the parties have entered into a mediation agreement may be summarily denied.

Rule 6.5. Motions to set aside in eviction cases.

(a) A tenant may file a Motion to Set Aside an Order for Summary Eviction and Deny the Complaint after an Order for Summary Eviction has been issued. Such a Motion must:

(1) Set forth valid legal grounds for setting aside the Order; and

(2) Be filed not later than the date of the lockout, unless:

(i) The tenant can show that the Order is void because he or she was not properly served with one or more notices as required by NRS 40.280; and

(ii) The motion is made within a reasonable time and in no event more than six months after the Order was issued, unless the Court finds that justice demands otherwise.

(b) Upon review of a Motion to Set Aside, the Court may:

(1) Rule upon the Motion to Set Aside summarily; or

(2) Set the Motion to Set Aside for hearing and stay the execution of any Order for Summary Eviction pending the resolution of the Motion.

(c) If the court elects to hear a Motion to Set Aside pursuant to subsection (b), the hearing must be scheduled *on the Court's first available hearing date, but not sooner than ten calendar days to ensure* ~~within seven to ten calendar days from the date the Motion is approved for hearing, or within a shorter time period if the Court determines~~ that all parties can be properly noticed of the hearing.

(d) Once a Motion to Set Aside has been ruled upon, a subsequent Motion to Set Aside alleging the same grounds may be summarily denied.

Rule 6.6. Motions to rescind and dismiss in eviction cases.

At any time, a landlord can voluntarily file a motion to rescind an order for summary eviction that has previously been issued. If such a motion is granted, the case shall be dismissed and sealed.

Rule 6.7. Mediation in eviction cases

Any case that results resulting in a settlement between the parties through mediation must have a mediation agreement between the parties filed with the Court prior to the hearing.

Rule 6.8. Eviction Diversion Program

(a) Cases pending a summary eviction hearing may be identified as eligible for diversion.

(b) Eligibility for the Eviction Diversion Program will be determined by the Court and may from time to time be amended due to capacity and available resources.

(c) Upon processing a tenant's answer or affidavit in opposition to summary eviction, the Court will issue an order requiring the tenant to appear at the Eviction Diversion office.

(1) The tenant will be assigned a case worker to connect the tenant to resources and services and make recommendations to the Court. Tenants are required to cooperate with the case worker.

(2) The case worker will assist the tenant with any application requirements for rental assistance whether through CHAP or any other available resource. Where such rental assistance application has been made, the provisions of AB 486 (2021) §2 apply.

(2) If the tenant fails to appear at the Eviction Diversion office or fails to cooperate with the case worker, the case will be removed from the Eviction Diversion Program pending the summary eviction hearing.

(d) Upon the recommendation of the case worker, the case will be assigned to a mediator for mediation.

(1) At the mediation, the mediator shall meet with the landlord and tenant, and counsel if any, explain the mediation process and the mediator's role and proceed with the process. The mediator shall discuss with the parties and counsel, if any, the facts and issues involved and assist the parties in identifying and resolving issues and exploring settlement alternatives and resources. The mediation will continue until a settlement is reached or the mediator determines that a settlement is not likely to be reached. If settlement is reached, the mediator will assist the parties in reducing their settlement agreement to writing, which writing shall be signed by both landlord and tenant.

(2) The court will review any report of the mediator stating the result of the mediation.

(3) If the Landlord fails to appear at mediation, the court may dismiss the complaint.

(4) If the Tenant fails to appear at mediation, the case will be removed from the Eviction Diversion Program pending the summary eviction hearing.

(5) If the parties entered into a written settlement agreement, the Court will review the terms of the agreement and determine how the case should proceed.

(6) Statements and communications made during mediation are confidential, are not subject to discovery, are not admissible in a proceeding, and may not be disclosed to anyone other than the participants in the mediation unless all mediation participants agree in writing or a statute or court rule requires disclosure.