

EVICTIION INFORMER

MESSAGE FROM THE PRESIDENT:

LAS VEGAS JUSTICE COURT CRACKS DOWN ON THREE DAY NUISANCE NOTICES

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The Eviction Informer is a regular newsletter produced by Southern Nevada Eviction Services. Please feel free to distribute it to industry professionals who may be interested in learning more about the eviction process.

Published by:

Southern Nevada Eviction Services

Edward D. Kania, President

Donna Young, Director

501 S. 6th Street

Las Vegas, NV 89101

Telephone: 702-366-0321

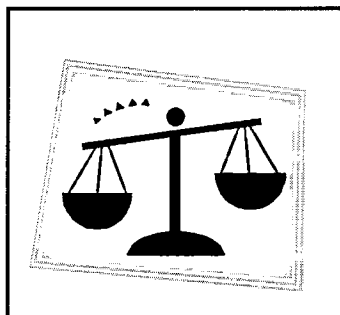
Fax: 702-366-1636

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The Las Vegas Justice Court has begun to significantly limit the acceptable reasons for the issuance of a Three Day Nuisance Notice as part of a summary eviction. This limitation on the use of Three Day Nuisance Notices has come without any change in the law or without any previous notice to litigants. Nonetheless, landlords must now consider other options such as Five Day Lease Violation Notices and Five Day Tenancy at Will Notices to evict problematic tenants.

For years, landlords have utilized Three Day Nuisance Notices to cover all types of non-rent-related problems such as unauthorized occupants, failure to maintain landscaping and failure to allow inspections. The Justice Court has allowed the use of Three Days for these types of infractions until recently. However, the Court has now decreed that Three Day Nuisance Notices may only be used in narrow situations as detailed below. If the particular infraction does not fit within these situations, the landlord must now use alternative notices such as Lease Violation or Tenancy at Will Notices.



Going forward, Three Day Nuisance Notices may only be used for six reasons: (1) the tenant has sublet the property in violation of the lease; (2) tenant has modified the property without permission of the landlord (if required in the lease); (3) the tenant runs an "unlawful" business from the premises. Note that if the business is lawful but simply is not allowed under the lease, a Three Day Nuisance cannot be used; (4) causing a "nuisance" on the property which involves "unreasonable obstruction to the free use of the property and causes injury and damage to other tenants or occupants of that property or adjacent buildings or structures"; (5) drug violations occurring on the property and (6) post-

foreclosure eviction of the former owner of the property.

If the tenant violation does not fit within these six situations (for example, failure to pay security deposit and unauthorized occupants would no longer be legitimate reasons for a Three Day), the landlord must instead post a Five Day Lease Violation Notice (if the conduct violates the terms of the lease). Landlords may also use the Five Day Tenancy at Will Notice for circumstances where someone has broken into the home and established residency and in those case where an occupant has been duped into moving into the property by an unauthorized individual.

These new changes will certainly make evicting tenants harder to do. The Court has already begun denying evictions for improper Three Days. Therefore, make sure your situation clearly falls under the six situations before choosing the Three Day Nuisance Notice option.

NEW DOMESTIC VIOLENCE LAWS AND YOU BY: DONNA YOUNG, DIRECTOR OF OPERATIONS

Starting July 1, 2013, Nevada has new laws regarding the impact of domestic violence on residential leases. Tenants who are victims of domestic violence will have greater flexibility in breaking their leases without penalty as well as have the ability to

require their landlords to rekey the premises. Landlords need to be aware of their rights, as well as the tenant's obligations, under this new law.

Pursuant to recently passed legislation (AB 284), a victim of domestic violence may terminate his/her residential

lease at the end of the rental period or with a 30 day notice (even if the lease is not set to expire within 30 days), whichever occurs sooner. The tenant is not financially responsible for breaking the lease or any early termination

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COURTS SIGNIFICANTLY RAISE THEIR FEES

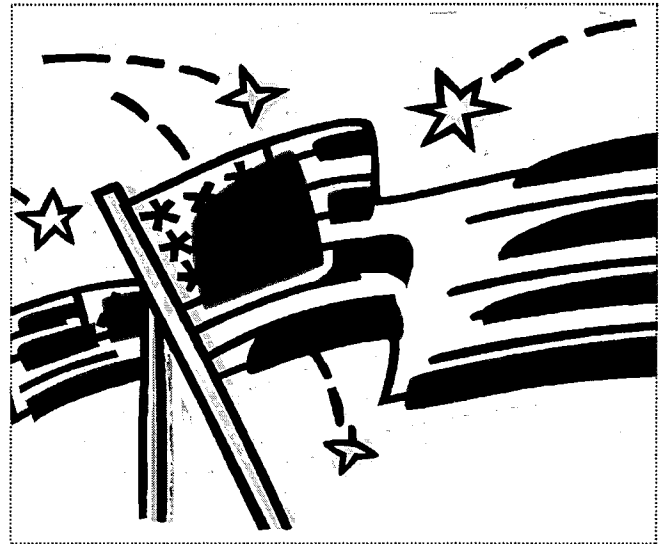
Starting July 1, 2013, the fee to file a summary eviction or a post-foreclosure unlawful detainer action in the various Justice Courts will dramatically rise. On that date, the court filing fee for a summary eviction will rise from \$49 to \$71. The fee for a tenant to file an answer to a summary eviction will also rise to \$71 but the tenant can seek a waiver of the filing fee (a landlord cannot).

Even worse, the fee to file a unlawful detainer action will rise from \$49 to \$246! If the landlord is successful in acquiring the eviction in such an action, the fee to file the eviction paperwork (the Temporary Writ of Restitution)

will rise from \$6 to \$75.

These rate increases will impact all three jurisdictions and are a result of recent state legislation. The courts have not announced how these increased revenues will be used and whether this money will be used to hire new staff or otherwise benefit the public.

It is ironic that these increases come so close to Independence Day since the American Revolution started over the increased price of tea. Nonetheless, landlords and property managers need to account for this new fees in their management agreements and leases.



DOMESTIC VIOLENCE LAWS (CONT.)

fees, regardless of language in the lease to the contrary. The person accused of being the abuser can be related to the tenant, a co-tenant or some other occupant of the property. The law does not require that the abuser be living with the tenant. In addition, the victim can request that the landlord rekey the premises prior to the lockout (the tenant is financially responsible for paying for the re-keying). The landlord may not give the abusing party a copy of the key nor inform the abusing party of the tenant's new address

To be eligible for this early termination, the domestic violence victim/tenant must provide written notice to the landlord of the wish to terminate the lease. In addition, the tenant must provide one of the following: (1) an order for protection; (2) report from law enforcement stating that the tenant was a victim of domestic violence; or (3) a written affidavit from a "qualified third party" (doctor, social worker, counselor)

stating that the tenant was a victim of domestic violence. The violence must have occurred within ninety days of the notice to terminate.

Although the victim/tenant is not financially responsible for breaking the lease or for any early termination penalties, the abusing party can be held financially responsible. The landlord would need to file a civil action against the abuser to recover any lost rents/fees.

This law raises several legal issues which it does not address. For example, if the parties are living together under the lease and the victim seeks to terminate the lease, would that also terminate the lease for the abusing party? Similarly, if the victim asks for a lock change and the abuser is denied access to the premises, can the abuser sue the landlord for an illegal lockout? What are penalties for a landlord that fails to

allow the tenant to break his/her lease? Only time and litigation will tell how this law addresses these issues.

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 EVICTION PROCESS

EVICTION FACT:

On the day of the lockout, the constable's deputy must be able to contact someone to confirm that the lockout needs to proceed and to make arrangements for the lock change. If the deputy cannot timely contact someone on the day of the lockout, the lockout will be cancelled and the landlord will have to pay to "re-activate" the lockout. Therefore, make sure that you include on the constable instructions a working phone number that will be regularly monitored by you or your staff on lockout day.