

# EVICITION INFORMER

MESSAGE FROM THE PRESIDENT:

## WINNING COURT STRATEGIES

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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:

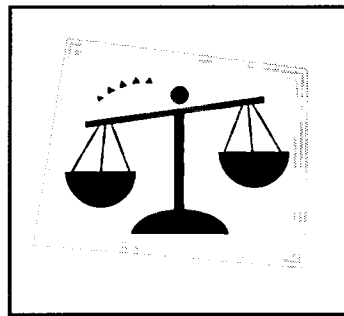
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As I am frequently in court, I often have the opportunity to watch property managers and individual landlords represent themselves in summary eviction hearings. Many times I am able to determine the outcome of the hearing beforehand depending on the preparedness and demeanor of the manager or landlord. Even when they have a strong case, landlords often lose simply because they do not effectively represent their position in court. By utilizing a few simple tips, property managers and landlords can significantly increase their chances of being victorious:

**Show Up on Time**  
 This would seem to be common sense yet I see so many people lose simply because they aren't in the courtroom when their case is called. If your hearing is scheduled for 1:00p.m., you must be in the courtroom by that time. Don't expect that the judge is going to be late or that your case won't be called first. The court often quickly moves through its calendar

**Be Prepared**  
 This means knowing your stuff! If you are seeking an eviction for unpaid rent, that means knowing the amount of rent and late fees due. The court will not be inclined to grant your eviction unless it



and, if you are not present when your matter is called, you automatically lose. Each of the courthouses requires you to pass through a metal detector, which takes significant time and leads to long lines. Get to the courthouse early so that there is no question as to whether you will be present when your case is called.

**Listen to the Judge**

You have a significant amount of information that you want to share with the judge. You want him to understand all of the heartache that the tenant has caused and how you have been a shining beacon for other property managers. However, the judge doesn't have the time or inclination to cover all of that ground. Since it is the judge who decides whether to evict or not, make sure that you listen

feels confident as to what exactly is owed. If you begin to flip-flop on amounts owed, the court will be hard-pressed to find in your favor.

Similarly, if you are seeking an eviction for other reasons such as damage to property or police activity, make sure you have a chronology of events that you can provide to the court as well as police reports, damage estimates and other specific details. "The police were called sometime in July for something" is not going to win you an eviction.

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## ILLEGAL LOCKOUTS: JUST SAY NO! BY: DONNA YOUNG, DIRECTOR OF OPERATIONS

You have a tenant who is driving you crazy. She hasn't paid the rent, she has unauthorized pets in the property and she is destroying the landscaping. You could go through the eviction process but instead you decide "I'll just lock them out when they are at

work. What's the worst that can happen?" The answer is "A lot!" You can be subject to fines, monetary judgments against you personally and having to let the tenant back into the property. It is important to know the implications of an illegal

lockout before you make decisions regarding locking out tenants without court permission.

Under Nevada law, a landlord may only change the locks on rental property once

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## WINNING COURT STRATEGIES (CONT.)

to the judge's questions and answer those questions and those questions only. If the judge asks the amount of rent due, don't tell the judge how the tenant continually insults your children. Just answer the question.

### Take "Yes" For An Answer

The eviction process is solely designed to either remove the tenant from the property or require them to correct a problem (pay rent, fix damage, remove an unauthorized pet). If the court orders either a removal of the tenant or for the tenant to fix the problem, that is a victory for you. Do not argue with the court about how long the tenant has to vacate or fix

the problem. The court is trying to balance the interests of each party and arguing with the court will likely cause the court to re-evaluate its decision. Usually this results in a worse result for you.

While these tips won't guarantee you success at the hearings, they will certainly improve your odds. By being present, knowing your case and accepting a win, you can effectively utilize the hearing process to rid yourself of a problem tenant.



## ILLEGAL LOCKOUTS (CONT.)

the tenant has voluntarily vacated the premises or pursuant to a lawfully obtained eviction order. Regardless of the underlying reason that the landlord wishes to remove the tenant (failure to pay rent, unauthorized occupants, damage to the property), a landlord cannot simply change the locks without an eviction order. Similarly, the landlord cannot change the locks because the tenant "may" have abandoned the premises unless the landlord has strong evidence of abandonment (communication with landlord regarding vacating premises, removal of all belongings, turning off all utilities).

If the landlord has committed an illegal lockout, the tenant has a right to file an Expedited Complaint for Illegal Lockout with the appropriate Justice Court. The court will waive the filing fee for the filing. The court will set an expedited date for a hearing on

the matter and it is the tenant's responsibility to have the landlord served with a copy of the Expedited Complaint.

At the hearing, the court will address the dual issues of whether the tenant will be allowed to return to possession of the property and whether damages/fines should be imposed. As to the possession issue, if the tenant wishes to return to the property and the court finds that the landlord changed the locks without permission, the court will likely allow the tenant to move back into the property. Even if the tenant owes rent or has been causing a nuisance, the court will likely order the landlord to immediately re-admit the tenant to the rental property.

In addition, the court will address potential damages. The court will take evidence on monetary damages that the tenant may have suffered

such as hotel costs, having to eat out, purchasing new clothes/medicine and commuting costs and may enter a monetary judgment against the landlord. This amount cannot be offset by unpaid rent or damages done by the tenant. In addition, the court may impose a fine of up to \$2,500 for willful violations of the tenant's rights.

The bottom line is that the best method for removing a tenant is through the eviction process. By completing an eviction on a tenant, the landlord is assured that he is legally protected. Otherwise, a rash move by the landlord to remove the tenant can lead to big financial headaches later.

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 TO LEARN MORE ABOUT THE  
 EVICTION PROCESS AND TO  
 READ OUR BLOG

### **EVICTION FACT:**

The constable must be able to identify the property in order to complete a lock-out.

The deputies may refuse to perform a lock-out if the house/apartment numbers are missing, because they cannot absolutely identify the property. Some tenants are aware of this situation and have removed the numbers so as to avoid eviction. Therefore, make sure your property has the address numbers clearly marked, even if you have to write the number on the door with a marker.