

**MOTION TO CONTEST PERSONAL PROPERTY LIEN AND  
FOR RETURN OF PERSONAL PROPERTY,  
AFFIDAVIT/DECLARATION IN SUPPORT OF MOTION TO CONTEST  
PERSONAL PROPERTY LIEN AND  
FOR RETURN OF PERSONAL PROPERTY, and  
ORDER FOR HEARING  
TENANT INSTRUCTIONS  
(Forms #20, #21 and #22)**

**INTRODUCTION**

Problems arise when you leave property behind after eviction or after you move out or leave an apartment or rental home. To avoid these problems, take all of your important property with you when you leave. Do not wait for the constable/sheriff to show up or expect to come back later without any problem. If you do leave property behind, this information explains your rights under Nevada law and how to file a Motion to Contest Personal Property Lien and for Return of Personal Property, Form #20, to enforce those rights.

**NRS 118A.460**

Nevada Revised Statute (NRS) Chapter 118A contains information relating to your rights as a tenant in Nevada. NRS 118A.460 contains your rights relating to personal property. Keep in mind that this law does not apply to you if your landlord is a public housing authority; if you lived in a hotel or motel for less than 30 days; or if you worked for the landlord in exchange for your rent. If you have any questions, please consult an attorney.

**REASONABLE CHARGES**

Nevada law requires your landlord to store your property for at least 30 days after you leave. The landlord can charge you the reasonable costs to inventory your personal property and to move and store your property before returning it. However, the landlord cannot charge back rent, late charges, or any other fee as a condition for returning your property.

After 30 days has passed, the landlord may dispose of your property, but only if the landlord has given written notice of this intent to dispose of your property and 14 days have gone by since you were given the notice. You should provide the landlord with a forwarding address.

Remember, if the landlord has not allowed you to get your property and you could have moved your property at the time you moved out if given the chance, bring that to the court's attention by filling out Numbers 6 and 7 on the Affidavit/Declaration in Support of Motion to Contest Personal Property Lien and for Return of Personal Property, Form #21, as appropriate.

If you think the landlord's charges are unreasonable or if the landlord will not return your property before payment of back rent, late charges or any other unauthorized fee, you have the right to file a Motion to Contest Personal Property Lien and for Return of Personal Property, Form #20. You can file the Motion only if:

- (1) You were evicted by the constable/sheriff after a court hearing; **and**
- (2) It has been 20 calendar days or less since you have left your rental unit, or a court order of eviction was issued, since the landlord informed you of the charges.

If you want to file this Motion, complete the Motion to Contest Personal Property Lien and for Return of Personal Property, Form #20. If you cannot file this Motion, you may sue the landlord in small claims court.

After reading these instructions and filling out the necessary paperwork, you must file the papers with the Justice Court as quickly as possible. Any delay may jeopardize your right to a hearing.

File the completed forms with the clerk of the Justice Court where your eviction hearing took place.

### **FILLING OUT FORM #20**

#### **Heading**

Fill in the name of the township and county of the Justice Court where the rental unit is located.

### Parties

You must fill in the names, addresses and phone numbers of the Landlord/Plaintiff and Tenant/Defendant as set forth on the Tenant's Affidavit/Declaration filed with the court.

### Case No. and Dept. No.

Use the identical Case Number and Department Number as was assigned by the court.

### Body of Motion

Check Number 1 and/or 2 as applicable.

### **POINTS AND AUTHORITIES**

You do not need to fill out anything here. The reason the Points and Authorities are here is because they explain the law that supports the motion.

### **SIGNATURE SECTION**

You must sign, print your name, and put in the date where indicated in the signature block.

### **CERTIFICATE OF SERVICE**

This document requires a "Certificate of Service." The purpose is to prove you notified the other party that you have filed or intend to file the document. The service of this document on the other party may occur before or after actual filing with the court. It is best to serve and file on the same day.

Provide the date and name of the document you delivered to the landlord or the landlord's attorney.

Fill in the address of the landlord or landlord's attorney. If the landlord is represented by an attorney, the Certificate of Service must indicate that the document is being sent to the attorney and indicate the attorney's address. If the landlord is represented by an attorney, you should not send a copy to the landlord.

Check the method by which the document was delivered.

The signature and printed name of the server are required.

## FILLING OUT FORM #21

### Heading

Fill in the name of the township and county of the Justice Court where the rental unit is located.

### Parties

You must fill in the names, addresses and phone numbers of the Landlord/Plaintiff and Tenant/Defendant.

### Case No. and Dept. No.

Use the identical Case Number and Department Number as was assigned by the court.

### Body of Affidavit

Fill in your name on the line provided.

#### Number 1

Complete the information requested.

#### Number 2

This sentence states that the landlord is as stated in the caption.

#### Number 3

Check 3A, B, C and/or D as applicable.

#### Numbers 4

If the landlord still has some of your personal property, check Number 4, providing requested information.

#### Number 5

If you attempted to remove any personal property, check Number 5, providing the requested information.

#### Number 6

Check Number 6 and provide the requested information.

#### Number 7

If the landlord refused to allow you to take your property, check Number 7 and provide the requested information.

### Number 8

Check Number 8, providing the requested information.

### Number 9

Check 9A and/or 9B if you disagree. Explain your reasons for disagreeing.

## **SIGNATURE AND NOTARY PUBLIC / DECLARATION SECTION**

You have a choice between signing the document in front of a notary, making the document an affidavit, or signing a declaration without a notary. Generally, clerks are available to certify that you signed the document. However, both alternatives mean that if you are not being truthful, you could be prosecuted for perjury.

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Check the method by which the document was delivered.

The signature and printed name of the server are required.

### **FILLING OUT FORM #22**

#### Heading

Fill in the name of the township and county of the Justice Court where the rental unit is located.

#### Parties

You must fill in the names, addresses and phone numbers of the Landlord/Plaintiff and Tenant/Defendant.

Case No. and Dept. No.

Use the identical Case Number and Department Number as was assigned by the court.

Body of the Order

Do not fill in any of the blanks on the document labeled "ORDER." This document will be completed by the judge after reviewing the documents.

**FILING THESE FORMS**

After reading these instructions and filling out the necessary paperwork, you must file the papers with the Justice Court as quickly as possible. Any delay may jeopardize your right to a hearing. File the completed forms with the clerk of the Justice Court where your eviction hearing took place. You will need the original and two copies of Forms #20 and #21. You must mail one of the copies to your landlord.

The Justice Court may charge a small filing fee. However, if you do not have the money, you may file an Application to Waive Fees and Costs, Form #37. You will list all of your income (earnings, rental income and government checks) plus your assets (real property, bank accounts, motor vehicles, etc.) and expenses (rent, utilities, insurance, childcare, credit card payments, car payments, etc.) on this form. (See the specific instructions involved with this process – Forms #37, #38 and #39.) When you complete the Application to Waive Fees and Costs, file your Motion with it. The court will not officially file your Motion until either (1) the judge grants your Application to Waive Fees and Costs (and gives you an Order Regarding Waiver of Fees and Costs, Form #39) or (2) you pay the filing fee.

**WHAT HAPPENS NEXT?**

The Justice Court clerk should accept your Motion upon payment of applicable fees, if any. The clerk will either give your hearing date immediately or will notify you later of the hearing date. Ask the clerk how long this will take or what you should do to find out the hearing date as quickly as possible. Under NRS 40.253(8), the hearing

date must be within ten (10) judicial days<sup>1</sup> of the day you filed the Motion. The court will tell you how to notify your landlord of the hearing date. At the hearing, the court will decide what happens to your property. While you are at the hearing and in front of the judge, ask the landlord for a time to pick up the property.

**DO NOT MISS THE HEARING!** If you fail to attend your hearing, you will probably lose any chance of getting your property back. At the hearing, explain to the judge why the landlord's fees are excessive or why the landlord should not be allowed to withhold your property. The judge will decide what, if anything, you must pay before receiving your property back.

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<sup>1</sup> "Judicial Days" do not include date of service, weekends or legal holidays.