



Legal Process Service

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F.A.Q.'s

Frequently Asked Questions
Summary Eviction Process
Clark County, Nevada

1. HOW DO I EVICT A TENANT?

All evictions must begin with the service of a Notice. The type of Notice that is served to the tenant will be determined by the circumstance, as there are several types of notices that can be used. In most cases the normal Summary Eviction Process in Clark County is a two (2) step process; however, sometimes it can be three (3) steps, depending on the type of Notice.

2. WHAT ARE THE TYPES OF NOTICES?

- **Five (5) Day Notice to Pay Rent or Surrender the Premises** – This type of notice is used for non-payment of rent and is the quickest method for following through with the actual lockout. This type of notice requires no other notice and after expiration, landlords can proceed directly to Eviction.
IMPORTANT! If you have a scheduled grace period for payment of rent with your tenant, then you must wait until the time has elapsed before serving the Five (5) Day Notice. If there is NO grace period for payment of rent, then you can proceed with the Five (5) Day Notice.
IMPORTANT! If the tenant pays you the full rental amount, you must accept the payment. You can refuse partial payments. However, if you accept partial payment, it will nullify and void the Five (5) Day Notice that was served and you will need to start all over again with a new notice.
- **Three (3) Day Nuisance Notice (followed by a Five (5) Day Unlawful Detainer Notice)** – This type of notice is used to evict a tenant for something other than non-payment of rent. This can be used for what you consider to be a nuisance. It requires a written reason and has absolutely nothing to do with rent money. Your tenant has three (3) business days to fix the problem.
IMPORTANT! **This is a Three (3) Step Eviction Process!** This notice needs to be followed-up with the *Five (5) Day Unlawful Detainer Notice*.
- **Thirty (30) Day Notice (followed by a Five (5) Day Unlawful Detainer Notice)** - This notice applies to Landlords who desire the leased property for ANY REASON. This notice has nothing to do with rent money. This type of notice cannot be served if your lease agreement is still in effect.
IMPORTANT! **This is a Three (3) Step Eviction Process!** This notice needs to be followed-up with the *Five (5) Day Unlawful Detainer Notice*.
- **Five (5) Day Unlawful Detainer Notice** – This is the follow-up notice for the Three (3) Day Nuisance Notice and the Thirty (30) Day Notice. Additional fees are incurred for the service of this notice.
- For additional information regarding other types of notices such as: *Seven (7) Day Notice* (which pertains to weekly rentals); *Ten (10) Day Notice* (which pertains to manufactured/mobile homes); etc. please reference the Clark County Website below:
- http://www.accessclarkcounty.com/depts/constable/constable_las_vegas/Pages/Eviction_Process.aspx

3. HOW LONG DO I HAVE TO WAIT BEFORE I CAN PROCEED WITH THE EVICTION FILING AFTER THE NOTICE HAS BEEN SERVED?

- For the Five (5) Day Notice to Pay Rent or Surrender Premises – If the notice was *personally served to the named tenant*, you count five (5) business days total (excluding the date of service, weekends and any court holidays). After the fifth (5th) business day, you may proceed with the Summary Eviction Filing at the Justice Court.
For example: If the notice was *personally served to the named tenant of the property* on Friday, 05/08/2009. Tenant has the next Monday through Friday (05/11/2009 – 05/15/2009) of the following week to contest the notice with the Justice Court. You may continue with the eviction process beginning on Monday, 05/18/2009.
- If the Five (5) Day Notice to Pay Rent or Surrender Premises notice was *served to any other occupant(s) or posted* at the property, you must allow three (3) business days for mailing. You must count nine (9) business days total (excluding the date of service, weekends and any court holidays). After the ninth (9th) business day, you can proceed with the eviction filing at the Justice Court.
For example: If the notice was *sub-served or posted at the property* on Friday, 05/08/2009. Tenant has from Monday through the Wednesday (05/11/2009 – 05/20/2009) of the next week to contest the notice with the Justice Court. You may continue with the eviction process beginning on Thursday, 05/21/2009.
- For the Three (3) Day Nuisance Notice – Requires a written reason for the nuisance. The tenant has three days to fix the problem. This notice expires on the third business day after the date of service. You cannot count the date of service; also you must allow three (3) days for required mailing. Then you must follow-up with the service of the *Five (5) Day Unlawful Detainer Notice*. You may reference the days counted for the *Five (5) Day Notice to Pay Rent or Surrender Premises* to help understand when you can proceed with your eviction filing at the Justice Court.
- For the Thirty (30) Day Notice – Landlord desires the property for any reason. This cannot be used when there is a lease in effect. This notice will run consecutively through weekends and holidays. You cannot count the date of service. Then, you must follow-up with the service of the *Five (5) Day Unlawful Detainer Notice*. You may reference the days counted for the *Five (5) Day Notice to Pay Rent or Surrender Premises* to help understand when you can proceed with your eviction filing at the Justice Court.

4. WHAT IS THE LEGAL PROCESS SERVICE FEE AND WHAT DOES IT INCLUDE?

For Notices:

Our Fees are quoted upon request and are based on the zip code of your tenant. Our fee includes: Document Preparation of the Notice, Service of Process within 24 hours, Notarized Affidavits of Service, Notarized Affidavits of Mailing with Certificate of Mailing.

For Evictions/ Lock-Out Filing:

Our fees include Document preparation of the Summary Eviction package, notary, copies and court/constable runs. Justice Court filing fees and Constable Fees are not included and will be requested from client. Additional fees will be incurred for RUSH filing requests.

5. WHAT CAN I EXPECT AFTER THE SERVICE OF A NOTICE?

It is important to note that tenants have the right to contest any notice. If they do contest/file an answer for a hearing, the Justice Court *may* contact you depending on the jurisdiction of your tenant. You will be required to file your Summary Eviction documents in a timely manner. At the time of the filing, a court date will be assigned for the hearing. At the hearing a judge will render a decision as to the status of the Eviction. If the judge's decision gives the tenant a specific date & time to surrender the premises. It is very important that you follow-up with the Court and Legal Process Service so that the Order for Eviction can be released and Constable Fees can be rendered for the physical lock-out. If the judge grants the eviction, then it is important to notify Legal Process Service so that we can process your file in the proper manner. Your tenant also has the right to contest the 24 Hour Lockout Notice which is posted by the Constable. In the event that this happens, the tenant's reason is then sent to the Judge for approval.

6. WHEN DOES MY EVICTION GET FILED IN COURT?

After a Notice has run its course, Legal Process Service can assist you with document preparation and filing of your Eviction. It is important to note that only the Constable or Sheriff can perform the actual lock-out. It is the landlord's responsibility to notify Legal Process Service of any further eviction proceedings requested. Evictions are processed in the order that they are received. Evictions that need to be handled on a *RUSH* basis will incur additional fees.

7. DOES MY TENANT HAVE RIGHTS?

Yes they do. When the notice is served, your tenant's rights state that they can contest the notice with the justice courts from the moment that they receive the notice. Their reasons can vary, but they must get their Tenant's Response filed with the court of jurisdiction. It will then be approved or denied by the judge. If it is approved, then a hearing will be scheduled. Your tenant can also contest the 24 Hour Lock-out Notice, which is posted by the Constable. This notice is posted 24 hours before the Constable returns to the property to do a lock change.

8. WHAT DO I DO WITH TENANT'S PROPERTY THAT IS LEFT BEHIND AFTER AN EVICTION LOCK-OUT?

Landlord must store the tenant's property for thirty (30) days. Tenant can make arrangements to remove their belongings with the Landlord during this time. The Landlord cannot charge back rent for storage; however, a "reasonable" storage fee can be assessed. Landlord must notify the tenant of their intentions to dispose of the property after 30 days. Notification must be made in writing and sent via certified mail by the fifteenth (15) day after the eviction lock-out. If you choose, you may contact a storage company to have tenant's property inventoried and stored.

9. WHAT IF MY TENANT MOVES OUT, SHOULD I CANCEL THE EVICTION?

It has been our experience that completing the Eviction process all the way until the lock-out is the best. This helps to prevent any problems that may arise should the tenant try to reoccupy the premises.

10. WHAT IF THE TENANT PAYS AND I NEED TO CANCEL THE EVICTION?

Constable will call prior to the actual lock-out / lock-change. If tenant has paid and is going to stay, inform Constable when he/she calls that your eviction will not be necessary. Constable's Office cannot accept eviction cancellation requests via phone and/or fax.

11. ORDER TO RESCIND

If you are looking to get a refund from the Constable's Office you must file an "Order to Rescind."

Information below is directly quoted from the Clark County Website:

Order to rescind must be done in Justice Court then brought to Constable's Office for lock-out fees refund. Order must be in this office the day before action is to be taken or Constable's Office will be unable to refund. If posting has already been done and you file order to rescind the day before lock-out, only half (1/2) of refund will be issued (8-12 weeks for refund). If you cancel eviction with Deputy Constable, then change your mind, you will have to start eviction process from the beginning. Once order is received from Justice Court and lock-out fees are paid, we MUST proceed the next business day. NO EXCEPTIONS. Failure to follow this procedure will result in the eviction being canceled and you will have to start the eviction process from the beginning.

F.Y.I.

For Your Information

- **I PREPARED MY OWN NOTICE AND SERVED IT AND NOW I WANT LEGAL PROCESS SERVICE TO DO THE EVICTION.**

If you are preparing your own notices, please be sure that the court will accept your notice and the affidavit of service that you prepare. Please note that if you come to Legal Process Service for assistance with eviction papers based on a notice that was not prepared and/or served by Legal Process Service, there will be no refunds from Legal Process Service for any evictions that are not accepted by the court because of a faulty notice or paperwork prepared by the client.

- **FORECLOSURE:** NO Notices are available for this process. A foreclosure requires the filing of a *FORMAL CIVIL COMPLAINT* with the court of jurisdiction.
- All evictions must begin with a notice. There are several types of notices to choose from. You may not always be able to use the quickest notice available. You must choose one that applies to the situation.
- Eviction time frames will vary dependant on the jurisdiction of the tenant's property and the Justice Court that your eviction is being handled in.
- **After reading the above information, if you are still unsure how to proceed, you may contact an attorney for legal advice.**