

**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.

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 #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 days¹ 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.

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

IN THE JUSTICE COURT OF _____ TOWNSHIP
IN AND FOR THE COUNTY OF _____, STATE OF NEVADA

Name: _____
Address: _____
Phone: _____
Landlord/Plaintiff

vs.

CASE NO: _____

Name: _____
Address: _____
Phone: _____
Tenant/Defendant

DEPT. NO: _____

**MOTION TO CONTEST PERSONAL PROPERTY LIEN
AND FOR RETURN OF PERSONAL PROPERTY**

Based upon the attached affidavit/declaration, I request a hearing to:

- _____ 1. Challenge the landlord's right to withhold my personal property from me.
- _____ 2. Challenge the amount the landlord is requesting I pay before he/she will release my personal property to me.

POINTS AND AUTHORITIES

This motion and affidavit are filed, pursuant to NRS 118A.460, to provide for the rights of a tenant to retain possession of his or her personal property in the case of an eviction under NRS 118A. This right is not reduced in any way by the legitimacy of the

eviction or monies owed by the tenant to the landlord for back rent, damages or other debts.

Submitted by,

Dated

Signature of Tenant/Defendant

Print Name of Tenant/Defendant

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and JCRCP 5(b), I hereby certify that I am a non-party over the age of 18 years, and that on _____, 20____, I served a true and correct copy of the foregoing _____,

(Name of document that was served)

addressed to:

- BY U.S. MAIL: I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document at _____ (City and State), in the ordinary course of business.
- BY FACSIMILE TO: _____ (FAX number).
- BY PERSONAL SERVICE: I personally hand delivered the above-identified document to the address/offices of the person named above.

Signature of Server

Print Name of Server

IN THE JUSTICE COURT OF _____ TOWNSHIP
IN AND FOR THE COUNTY OF _____, STATE OF NEVADA

Name: _____
Address: _____
Phone: _____
Landlord/Plaintiff

vs.

CASE NO: _____

Name: _____
Address: _____
Phone: _____
Tenant/Defendant

DEPT. NO: _____

**AFFIDAVIT/DECLARATION IN SUPPORT OF MOTION
TO CONTEST PERSONAL PROPERTY LIEN
AND FOR RETURN OF PERSONAL PROPERTY**

I, _____ (Name), state that

1. I rented the property at _____ (Address)
_____ (City and State) and lived
there until _____, 20____.
2. To the best of my knowledge the landlord and/or owner of the property is
as stated above in the caption to this matter.

- _____ 3. I further state that
- _____ A. I abandoned the residence on the above date.
 - _____ B. I was evicted by Order of the Justice Court. The date of the Order evicting me was _____, 20____.
 - _____ C. I left because I received a notice of eviction.
 - _____ D. Other: (Explain) _____

_____.

_____ 4. My landlord still has some of my personal property. The general description of the property still in my landlord's possession is as follows: _____

_____.

_____ 5. I attempted to remove my property as follows: (State all attempts you made to remove your property and describe what happened for each attempt and dates.) _____

_____.

_____ 6. The date my landlord told me that I could not have my property until I paid him was _____, 20____.

_____ 7. My landlord refused to allow me to take my property because:

_____ 8. The amount my landlord demanded was \$ _____.

_____ 9. I disagree with:

_____ A. The landlord's right to hold my property. Explain your reasons for disagreeing: _____

_____ B. The amount charged by me landlord. Explain your reasons for disagreeing and the specific dates you requested or were informed of any charges: _____

WHEREFORE, I ask the Court to order the return of my personal property.

I swear the above is true. Signature: _____

SUBSCRIBED AND SWORN to before me this ____ day of _____,
20____.

NOTARY PUBLIC
OR
DEPUTY CLERK _____

OR
THE FOLLOWING:

Pursuant to NRS 53.045:

"I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct."

Executed on _____, 20____

Signature

Print Name

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and JCRCP 5(b), I hereby certify that I am a non-party over the age of 18 years, and that on _____, 20____, I served a true and correct copy of the foregoing

(Name of document that was served)

addressed to:

BY U.S. MAIL: I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document at _____ (City and State), in the ordinary course of business.

BY FACSIMILE TO: _____ (FAX number).

BY PERSONAL SERVICE: I personally hand delivered the above-identified document to the address/offices of the person named above.

Signature of Server

Print Name of Server

IN THE JUSTICE COURT OF _____ TOWNSHIP
IN AND FOR THE COUNTY OF _____, STATE OF NEVADA

Name: _____
Address: _____
Phone: _____
Landlord/Plaintiff

vs.

CASE NO: _____

Name: _____
Address: _____
Phone: _____
Tenant/Defendant

DEPT. NO: _____

ORDER FOR HEARING

STATE OF NEVADA, TO THE WITHIN NAMED LANDLORD, GREETINGS:

YOU ARE HEREBY ORDERED to appear for a hearing and be prepared to answer the within and foregoing Motion to Contest Personal Property Lien at: _____ (Courthouse), on the _____ day of _____, 20____, at _____.m.,

AND HAVE WITH YOU ALL BOOKS, PAPERS, AND WITNESSES needed by you to establish your defense against said claim. You are further notified that in the event that you do not appear, judgment will be given against you for the return of the property without charge as described in the attached Affidavit. You do not need to appear if you do not wish to contest the Motion.

DATED

JUSTICE OF THE PEACE

Apartment
Court
Order for Hearing re: Motion to Contest
Personal Property Lien
Form #22

1 of 2

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and JCRCP 5(b), I hereby certify that I am a non-party over the age of 18 years, and that on _____, 20____, I served a true and correct copy of the foregoing

(Name of document that was served)

addressed to:

BY U.S. MAIL: I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document at _____ (City and State), in the ordinary course of business.

BY FACSIMILE TO: _____ (FAX number).

BY PERSONAL SERVICE: I personally hand delivered the above-identified document to the address/offices of the person named above.

Signature of Server

Print Name of Server