

IN THE JUSTICE COURT OF SPARKS TOWNSHIP  
COUNTY OF WASHOE, STATE OF NEVADA

\_\_\_\_\_,  
Landlord(s),  
v.  
\_\_\_\_\_,  
Tenant(s).

Case No.: \_\_\_\_\_

Dept. No.: \_\_\_\_\_

**MOTION TO STAY EVICTION  
PENDING APPEAL UPON  
POSTING OF COST BOND**

Comes now, \_\_\_\_\_ (name) ("Appellant"),  
and respectfully requests that upon my posting of the Appeal Cost Bond outlined in Nevada Revised  
Statute ("NRS") §40.385(2), the Court stay execution of the eviction order entered on  
\_\_\_\_\_ (date) pending the appeal of this matter.

**POINTS AND AUTHORITIES**

NRS §40.385 provides:

1. Either party may appeal an order entered pursuant to [NRS 40.253](#), [40.254](#) or [40.2542](#) by filing a notice of appeal within 10 judicial days after the date of entry of the order.
2. Except as otherwise provided in this section, a stay of execution may be obtained by filing with the trial court a bond in the amount of \$250 to cover the expected costs on appeal. A surety upon the bond submits to the jurisdiction of the appellate court and irrevocably appoints the clerk of that court as the surety's agent upon whom papers affecting the surety's liability upon the bond may be served. Liability of a surety may be enforced, or the bond may be released, on motion in the appellate court without independent action. A tenant of commercial property may obtain a stay of execution only upon the issuance of a stay pursuant to [Rule 8](#) of the Nevada Rules of Appellate Procedure and the posting of a supersedeas bond in the amount of 100 percent of any unpaid rent claim of the landlord.
3. A tenant who retains possession of the premises that are the subject of the appeal during the pendency of the appeal **shall pay to the landlord rent in the amount provided in the underlying contract between the tenant and the landlord as it becomes due. If the tenant fails to pay such rent, the landlord may initiate new proceedings for a summary eviction by serving the tenant with a new notice pursuant to [NRS 40.253](#), [40.254](#) or [40.2542](#).**

*(Emphasis added).*

1 **FACTS AND ARGUMENT**

2 An eviction order was entered on \_\_\_\_\_ (date) against the Tenant  
3 which evicts Tenant from the residence/unit/mobile home. Tenant continues to occupy the property  
4 located at \_\_\_\_\_. Appellant filed  
5 their Notice of Appeal of said order on \_\_\_\_\_ (date).

6 Tenant agrees to pay Landlord contract rent as it becomes due as provided in the underlying  
7 lease (express or implied). Tenant acknowledges if they fail to pay such rent, Landlord may initiate  
8 new Summary Eviction proceedings and serve the Tenant with a new notice during the pendency of  
9 the underlying appeal pursuant to NRS §40.385(3).

10 Pursuant to NRS §40.385 and Justice Court Rule of Civil Procedure 73(b), Appellant requests  
11 that upon the posting of their Appeal Cost Bond in the sum of \$250, the Court stay execution of the  
12 eviction order entered in the above-entitled Court.

13 Pursuant to NRS §53.045, I declare under penalty of perjury, under the laws of the State of  
14 Nevada that the foregoing is true and correct.

15 Dated: \_\_\_\_\_

16 Signature: \_\_\_\_\_

17 Print name: \_\_\_\_\_

18 Address: \_\_\_\_\_

19 City, State, Zip: \_\_\_\_\_

20 Telephone: \_\_\_\_\_

21 Email: \_\_\_\_\_

**CERTIFICATE OF SERVICE**

Pursuant to JCRCP 5(b), I hereby certify that on \_\_\_\_\_, I served a true and correct copy of the foregoing Motion upon the following person:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Via: ☐ Service by Odyssey File and Serve  
☐ Personal Service  
☐ U.S. Mail, postage prepaid  
☐ Certified mail, return receipt attached  
☐ Other \_\_\_\_\_

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Via: ☐ Service by Odyssey File and Serve  
☐ Personal Service  
☐ U.S. Mail, postage prepaid  
☐ Certified mail, return receipt attached  
☐ Other \_\_\_\_\_

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

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Print name: \_\_\_\_\_