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).*

Sparks Justice Court

FACTS AND ARGUMENT

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

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

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

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

Dated: _____

Signature: _____

Print name: _____

Address: _____

City, State, Zip: _____

Telephone: _____

Email: _____