

SENATE BILL NO. 74—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

PREFILED NOVEMBER 20, 2018

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing eviction actions.
(BDR 3-492)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to unlawful detainer; revising provisions governing eviction actions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes an appeal of an order entered by a court in an action for summary eviction of a tenant for default in payment of rent. (NRS 40.385) **Section 1** of this bill: (1) clarifies that either party may appeal an order entered by the court in such an action for summary eviction; (2) provides that such an appeal is made by filing a notice of appeal within 5 judicial days after the date of the entry of the order; and (3) makes such an appeal available in actions involving mobile home parks.

Existing law provides that if a landlord unlawfully removes a tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises, willfully interrupts any essential item or service or otherwise unlawfully recovers possession of the dwelling unit, the tenant may recover immediate possession of the premises from the landlord by filing a verified complaint for expedited relief. Existing law also provides that a verified complaint for expedited relief may not be filed with the court if an action for summary eviction or unlawful detainer is already pending between the landlord and tenant, although the tenant may seek similar relief before the judge presiding over the pending action. (NRS 118A.390) **Section 2** of this bill provides that a verified complaint for expedited relief may be consolidated with an action for summary eviction or unlawful detainer that is already pending between the landlord and tenant.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 40.385 is hereby amended to read as follows:

40.385 ~~Upon an~~ **1. Either party may** appeal ~~from~~ an order entered pursuant to NRS 40.253 ~~;~~ **—1.1 or 40.254 by filing a notice of appeal within 5 judicial days after the date of entry of the order.**

2. Except as otherwise provided in this ~~subsection,~~ **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 ~~the~~ **any** unpaid rent claim of the landlord.

~~2.1~~ **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 ~~;~~ **or 40.254.**

Sec. 2. NRS 118A.390 is hereby amended to read as follows:

118A.390 **1.** If the landlord unlawfully removes the tenant from the premises or excludes the tenant by blocking or attempting to block the tenant's entry upon the premises, willfully interrupts or causes or permits the interruption of any essential item or service required by the rental agreement or this chapter or otherwise recovers possession of the dwelling unit in violation of NRS 118A.480, the tenant may recover immediate possession pursuant to subsection 4, proceed under NRS 118A.380 or terminate the rental agreement and, in addition to any other remedy, recover the tenant's actual damages, receive an amount not greater than \$2,500 to be fixed by the court, or both.

2. In determining the amount, if any, to be awarded under subsection 1, the court shall consider:

(a) Whether the landlord acted in good faith;

(b) The course of conduct between the landlord and the tenant;

and



(c) The degree of harm to the tenant caused by the landlord's conduct.

3. If the rental agreement is terminated pursuant to subsection 1, the landlord shall return all prepaid rent and security recoverable under this chapter.

4. Except as otherwise provided in subsection 5, the tenant may recover immediate possession of the premises from the landlord by filing a verified complaint for expedited relief for the unlawful removal or exclusion of the tenant from the premises, the willful interruption of any essential item or service or the recovery of possession of the dwelling unit in violation of NRS 118A.480.

5. A verified complaint for expedited relief:

(a) Must be filed with the court within 5 judicial days after the date of the unlawful act by the landlord, and the verified complaint must be dismissed if it is not timely filed. If the verified complaint for expedited relief is dismissed pursuant to this paragraph, the tenant retains the right to pursue all other available remedies against the landlord.

(b) May ~~not~~ be ~~filed~~ consolidated with ~~the court if an~~ any action for summary eviction or unlawful detainer ~~that~~ is already pending between the landlord and tenant . ~~[-, but the tenant may seek similar relief before the judge presiding over the pending action.]~~

6. The court shall conduct a hearing on the verified complaint for expedited relief not later than 3 judicial days after the filing of the verified complaint for expedited relief. Before or at the scheduled hearing, the tenant must provide proof that the landlord has been properly served with a copy of the verified complaint for expedited relief. Upon the hearing, if it is determined that the landlord has violated any of the provisions of subsection 1, the court may:

(a) Order the landlord to restore to the tenant the premises or essential items or services, or both;

(b) Award damages pursuant to subsection 1; and

(c) Enjoin the landlord from violating the provisions of subsection 1 and, if the circumstances so warrant, hold the landlord in contempt of court.

7. The payment of all costs and official fees must be deferred for any tenant who files a verified complaint for expedited relief. After any hearing and not later than final disposition of the filing or order, the court shall assess the costs and fees against the party that does not prevail, except that the court may reduce them or waive them, as justice may require.



1 **Sec. 3.** The amendatory provisions of this act apply to all
2 actions pending or filed on or after October 1, 2019.

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