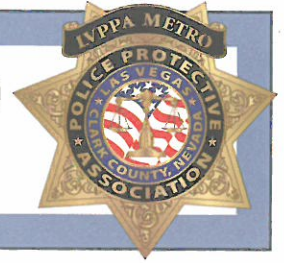


# Las Vegas Police Protective Association Metro, Inc.



To: Officer Nicholas Sarafin  
Officer Matt Cerbin  
From: David Roger, General Counsel *DR*  
Date: July 1, 2013  
Re: NRS 207.200 Trespass

## Introduction

You have asked for a legal opinion regarding Nevada's Trespass statute. Before addressing your specific issues, it is important to analyze NRS 207.200.

NRS 207.200 provides in pertinent part:

1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass, is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

Subsection (2)(d) provides that an owner or occupant may give oral or written notice to a "guest" to vacate the premises. The statute further defines "guest" as, "...any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in NRS 118A.170."

Chapter 118A sets forth the rights and obligations of Landlords and Tenants. NRS 118A.170 defines “tenant” as, “a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.”

Additionally, the statute, pursuant to NRS 118A.160, defines a rental agreement as, “...any oral or written agreement for the use and occupancy of a dwelling unit or premises.” Contract law requires each party to provide “consideration” to have a binding agreement. Typically, consideration has a monetary value.

The statute codifies the holding in *Scott v. Justice Ct*, 84 Nev.9, 435 P.2d 747 (1968). In that case, the Nevada Supreme Court held that an owner of a residence may ask a guest to leave the premises and the guest’s failure to comply violates Nevada’s Trespass statute.

The broad language of the statute allows an owner of land or a building to trespass a person from his property unless the person has an agreement to use or occupy the premises to the exclusion of others. Conversely, the legislature has indicated that Landlords must follow eviction procedures to force a tenant to leave the premises.

May an owner of a residence trespass a person who has established residency at the home?

This issue arises frequently when parents try to kick out their sons or daughters. The statute provides that, unless the person has an agreement that allows them to stay at the residence, the owner/parent may trespass the individual. Typically, unless the person has a rental agreement and pays rent, the owner may treat the person as a “guest” and trespass them. The owner need not resort to the eviction process.

While the concept of residency is referenced in Nevada Statutes, the trespass law is much simpler. Unless the holdover has an agreement, the person must leave the premises, if requested by the owner, or face arrest and prosecution.

May a person who has been evicted from an apartment or condominium return to use the common areas of the complex?

Whether a person, who has been evicted, may return to use the common area of the complex depends on the eviction order. Assuming the order is ambiguous, the owner may always trespass the person. Because the person no longer has an enforceable agreement to stay at the residence, he may not use the facilities.

Additionally, another renter may not give the unwanted person permission to use the facilities. Only the owner of the complex may give permission for a guest to stay on the premises.