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Small Claims Court Guide

Default

The Court may award a final judgment to the claimant when the defendant fails to file a Reply. This is called a default judgment. A Reply is the written statement of the claimant, in answer to the defendant's claim.

If a Defendant Does Not Reply to a Claim

If a defendant does not file a Reply within 30 days, the claimant may ask the Clerk for a default judgment.

This means that if a claimant has filed a claim against you, you have to complete a Reply (Form 2) and file it at the Court within 30 days of receiving it; otherwise, the claimant may get judgment against you in the amount that they have claimed, seize your goods and property; or schedule an assessment hearing without you being there.

Judge's permission needed in certain cases

No default judgment will be made on a counterclaim or Third Party Notice, without the Court's permission.

How to ask for a default judgment

To ask for a default judgment under Rule 12.1, a claimant must submit a written direction to the Registry.

If a claim is for an identified amount (or recovery of goods)

If a claim is for a clearly and easily identified amount and the claimant completes the steps mentioned above and, if the Clerk is satisfied that all preconditions have been met, the clerk will enter judgment requiring the defendant to pay the amount claimed and prepare a Certificate of Judgment (Form 11B).

If a claim is not for an identified amount

If a claim is for damages where the amount depends on the circumstances, and the claimant completes the steps above, the Clerk will set a date for an assessment hearing.

No notice of hearing

A defendant who has not filed a Reply and has been noted in default is not entitled to receive notice of any further steps taken in the proceedings.

Purpose of assessment hearing

The purpose of an assessment hearing under this rule is to allow a judge to determine

- (a) the amount the claimant is entitled to, if the claim is for money, and
- (b) the terms of any other order it considers appropriate.

If a claimant does not attend

If a claimant does not attend at the time set for an assessment hearing, the Court may adjourn the hearing or dismiss the claim.

How do I set aside the Noting in Default?

As a defendant, if you have been noted in default you may apply to set aside the Noting of Default or the subsequent judgment. To do this you fill out the Notice of Motion (Form 9) at the Registry. However, for the Court to set aside the Noting in Default you have to show that you have a good defence to the claim or show that you have a good reason for why you are in default.

What do I do once I have obtained a Certificate of Judgment?

Please go to the booklet number 6 *Getting Ready for Court – Part 2 – The Trial* where it talks about how you may collect payment.

How may I get more information?

This is one in a series of booklets available online or from the Small Claims Court Registry. The titles in the series are:

A (pages 1- 4) WHAT IS SMALL CLAIMS COURT?

B (pages 1-7) MAKING A CLAIM

C (pages 1- 4) SERVING DOCUMENTS

D (pages 1 – 5) REPLYING TO A CLAIM

E (pages 1 – 4) GETTING READY FOR COURT - PART 1 - MEDIATION

F (pages 1 – 3) GETTING READY FOR COURT – PART 2 - THE TRIAL

G (pages 1 – 3) DEFAULT

H (pages 1 – 3) WITNESSES

CIVIL RULES - For more detailed information you may want to look at the small claims court rules themselves. The rules have been written for non-lawyers.

The people behind the counter at the Small Claims Registry are helpful. They cannot give legal advice and they cannot fill out your forms for you, but they will gladly answer your questions about Small Claims Court procedures.

The information contained in this booklet is simply an overview of the significant provisions of the Small Claims Rules. The information is not intended to be legal advice. If you have any legal questions, you should see a lawyer.

Nunavut Legal Aid Offices:

Maliiganik Tukisiinaikvik (Iqaluit) – (867) 979-5377

Keewatin Legal Services (Rankin Inlet) – (867) 645-2536

Kitikmeot Law Centre (Cambridge Bay) – (867) 983-2906

High Arctic Law Office (Pond Inlet) – (867) 899-8707

Civil Registry of the Nunavut Court of Justice:

Main line – (867) 975-6102

Toll free – 1-866-286-0546