



Getting Paid in Civil Court

If you have a Small Claims or Supreme Court Judgment for money and aren't getting paid, you can apply to the Court to enforce its order. This guide is written generally to apply to either level of court, so the names of some forms or rules might differ slightly.

A party who owes money is called the Debtor and the party who is owed money is called the Creditor.

What is the law?

[Garnishee Act](#) – this is the law that allows a person who is owed money from a court judgment to collect it by going to a third party like a bank or employer.

[Executions Act](#) - gives Sheriffs power to act

Writ of Garnishment – Immediate or Continuing

Garnishment is a way to get banks or employers of the Debtor, called Garnishees, to give the Court money that is owed by the Debtor. You have to fill out forms to be signed by the Court Registry and give them to the Garnishee. The Garnishee then pays the money to the Court, who pays it to you.

If you know who the Debtor's bank or employer is, you can file a Writ of Garnishment. You can serve more than one bank or employer, however there is a cost for each. There are two kinds of garnishment.

Immediate Garnishment

[Immediate Garnishment](#) is used when the judgment debt is relatively small and there is a good chance you will get paid from the balance in the Debtor's bank account.

Continuing Garnishment

[Continuing Garnishment](#) is used for larger debts that may take more than one payment from the Debtor's bank. A Writ of Continuing Garnishment can also be used with an employer. If you garnish someone's wages under a Writ of Continuing Garnishment, up to 30% of their paycheque can be subject to garnishment.

Filing a Writ of Immediate or Continuing Garnishment (The court registry counter provides information sheets about how to fill out and file Garnishment forms)

- 1) Fill out the forms:
 - a. Writ of Immediate Garnishment (2 copies) and Notice of Response to Writ (3 copies for each bank).
 - b. Writ of Continuing Garnishment (3 copies), Affidavit in Support of Garnishment (1 copy) and Notice of Response to Writ (3 copies).
- 2) File with the Court Registry and pay filing fees.
- 3) Serve a copy of the Writ and 3 copies of the Response on each bank you think the Debtor uses. To serve documents, you can give them to the bank personally, or you could hire the Sheriff.
 - a. For a Continuing Writ: you must also serve a copy of the Writ to the Debtor within 14 days of serving a copy of the Continuing Writ to the employer or bank.
- 4) Within 14 days you should get a call from the Court Registry if the bank has paid money into court. Contact the Court Registry if you don't.

- 5) If money was paid into court, you have to send the Debtor a copy of the Notice completed by the bank.
- 6) To collect the money, fill out an Affidavit to Apply for Monies in Trust and file with the Registry.
- 7) You can collect the money or will receive a cheque from the Court within 30 days.

Sheriffs are officers of the court. Among other things, they are authorized under the [Executions Act](#) to carry out writs of seizure and sale on behalf of judgment creditors. The Sheriffs in the Yukon are located next to the court registry in Whitehorse. You can reach them with general inquiries at 867-667-5451.

How much could it cost?

The following costs are subject to change.

Depending on the nature of the property being seized, the process can take several months to complete. The most common property seized by the Sheriffs are vehicles. Vehicles will be impounded (stored) at a rate of \$35-\$40* per day, for a minimum legal period of 41 days before the vehicle can be advertised and sold. Advertising itself will cost at least \$490.

At a minimum, the process is likely to cost between \$1000 and \$1200, which covers:

- 1) initial process fee;
- 2) \$40/hr Sheriff rate;
- 3) transportation/towing costs;
- 4) impoundment fees: and
- 5) additional travel expenses.

Costs increase when a debtor does not agree to the seizure, or if the Sheriffs need to travel outside of Whitehorse.

Seizure and Sale

The seizure and sale process takes time, costs money, and works best if the Debtor owes a significant amount of money and it is fairly certain that the Debtor owns a vehicle, tools, or equipment that can be readily seized. It is usually not the first method people use to enforce a judgment against a Debtor.

If you have already tried garnishing someone's wages or bank account, or the Debtor does not have an employer, this may be the best option. There are limits on what can be seized. Ask the Sheriffs for more information.

Seizure and Sale Process

- 1) Search to find out if the Debtor has personal property of value to cover the debt. You can search the Personal Property Security Registry and/or Motor Vehicles to see if the property is already being used as collateral.
- 2) Fill out the Forms:
 - a. Writ of Seizure and Sale (2 copies);
 - b. Letter of Instruction describing the asset(s) you want seized.
- 3) Take to the Sheriffs:
 - a. copy of the Writ of Seizure and Sale;
 - b. a copy of the judgment;
 - c. Letter of Instruction; and
 - d. any search results from Corporate Affairs/Motor Vehicles.
- 4) Sign an Indemnification Letter.
- 5) Pay the retainer fee of \$600.
- 6) Wait up to 60 days for the Sheriffs to seize and sell the property. It could be longer if the Debtor objects or there is difficulty locating the property.
- 7) You will be paid the remainder of what is owed to you, after the Sheriffs deduct their costs (including advertising, vehicle storage, towing, Sheriff pay or other costs).

Real Property – liens and other encumbrances

If money is owed to you for work done to property or that has given you an interest in property, you may consider filing a lien against the property. This would prevent the property from being transferred without your claim being resolved. There are different types of liens and the requirements to file them are often very specific. You should seek legal advice if you are considering a lien.

Where to find forms and more help

You can find forms for Supreme Court and Small Claims Court at yukoncourts.ca or by visiting the Court Registry and/or the Law Line.

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