

A WALK THROUGH YUKON'S SMALL CLAIMS COURT

Booklet#1: What is Small Claims Court?

PRODUCED BY:

YUKON DEPARTMENT OF JUSTICE

What is Small Claims Court?

What kind of claim may I file in a Small Claims Court?

You may open a file in Small Claims Court to sue for: NSF cheques, unpaid accounts, unpaid bills for services you provided, unpaid loans, unpaid rent, costs due to motor vehicle accidents and property damage. You may also sue to recover goods taken or kept without permission. Claims for libel or slander, and disputes about land or wills and estates cannot be filed in Small Claims Court.

What if my claim is for more than \$5000?

If your claim is more than \$5000 and you do not think it is worth the cost or the trouble of going to the Supreme Court, you can reduce the total to \$5000 to have it filed in Small Claims Court. If you choose to reduce your claim to meet the Small Claims limit, you must give up any part of your claim that is over \$5000. You divide a larger claim and sue more than once in Small Claims Court for different parts of the same debt.

Can I use Small Claims Court when the cause of my claim began outside the Yukon?

In most cases, the event that resulted in your claim must have taken place in the Yukon. For example, if you pay for goods through the mail from another province or territory and do not receive them, you may have to sue in the courts in the other area.

How long do I have to sue in Small Claims Court?

The time limit for filing a claim depends on the type of claim. You must file a claim within six years of the date when you could have first made a claim for unpaid accounts, promissory notes, personal loans, NSF cheques, or damage to property. Claims for personal injury (such as from vehicle accidents), assault, breach of a lease, or failure to return property must be made within two years of the event.

What else should I look at?

Besides the time and limits, you should think about how likely you are to win. To win, your claim must have a sound legal basis (similar cases to yours must have been successful). You should also be able to show the court that you have evidence (such as copies of unpaid bills) to prove that you have a valid claim. The court will hear an oral claim, but if you have evidence, you will more likely be able to prove your case.

You should also consider whether you are likely to collect on your claim even if you win. It will be up to you to enforce any court judgement in your favour. The court staff cannot

collect money for you, although they can help you with the forms you need. In some cases you may have to pay more money to enforce your judgement. (See Booklet #6, Judgements and How to Collect a Small Claim.) If you can't find the person who owes you money, if they aren't working, or if they do not have assets, you probably will not be able to collect from them.

You should also consider whether it is really worth it to you to collect on your debt. If you win your case, the court can order that you be paid for costs associated with filing your claim, but you may have to spend several hours learning what to do and going through the steps in the Small Claims process. You will not be reimbursed for the time you spend on your case, or for any wages you lose by going to court. Going to court can also be a stressful experience.

What should I do before I decide to sue?

Before you sue, you should consider sending the other party a letter by double registered or certified mail clearly stating what you are owed, and demanding payment by a specific date. The letter should also state that you would be filing a claim in Small Claims Court if you are not paid by that date. If you are willing to use the free mediation services that are offered as part of the small claims process, you should say so in your letter.

You can check with Consumer Services if you have a problem with refunds for goods or services you purchased, or for landlord-tenant matters. If you are owed money from an employer, you can call Labour Services to see if their office could handle your claim. The Law Line can provide you with limited legal information. These services are free, while a half-hour consultation with a lawyer through the Lawyer Referral Service is approximately \$30.

Consumer Services: 667-5111 (local)
1-800-661-0408 (toll free within the Yukon)

Labour Services: 667-5944 (local)
1-800-661-0408 (toll free)

Law Line: 668-5297 (local)
1-867-668-5297 (toll free)

Lawyer Referral: 668-4231 (local)
0-867-668-4231 (collect within the Yukon)

Fees and Forms for Small Claims Court

Fees:

Filing a Claim:

Claims up to and including \$3000	\$50.00
Claims over \$3000 and not more than \$5000	\$100.00

Filing a reply (except where defendant agrees to pay all of the claim and costs)	\$25.00
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Scheduling a trial	\$50.00
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Search of a record of a proceeding (except a search by a party By the party's solicitor)	\$2.00
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Copies , per page	\$0.50
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Certified copy of a document on a Court file	\$5.00
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Certificate of judgement or any other certificate	\$5.00
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Filing a copy of an order from another registry of the court	\$5.00
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Fees and Expenses for Sheriff's services

**see the Supreme Court Rules "Schedule 2 – Fees Payable to Sheriff" and pay directly to Sheriff's Office.

Forms:

The following forms are available from the Small Claims Clerk:

- 1) Claim
- 2) Consent to Act as Litigation Guardian
- 3) Notice to Alleged Partner
- 4) Affidavit of Service
- 5) Certificate of Service
- 6) Fax Memo
- 7) Reply
- 8) Third Party Claim
- 9) Default Judgement for Plaintiff
- 10) Default Judgement
- 11) Notice of Motion

- 12) Affidavit
- 13) Notice of Election for Mediation
- 14) Notice of Withdrawal
- 15) Summons to Witness
- 16) Warrant for Arrest of Defaulting Witness
- 17) Notice of Trial
- 18) Writ of Seizure and Sale of Personal Property
- 19) Writ of Seizure and Sale of Land
- 20) Writ of Delivery
- 21) Notice of Examination
- 22) Warrant of Arrest
- 23) Warrant of Committal
- 24) Notice of Intention to Proceed