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Small Claims Court Guide

Replying to a claim

If someone is suing you in Small Claims Court, you will receive a Notice of Claim. For most people, this raises a lot of questions.

If you decide to oppose the claim, it will tell you how. If you simply want a reasonable payment schedule, it will tell you how to arrange that. Read the booklet first and then decide what action you want to take.

If you are a claimant and the person you are suing makes a counterclaim against you, this booklet may provide some help with some of the decision you'll have to make.

What if I just do nothing?

The one thing you should NOT do is ignore the claim. If you do nothing, the claimant may get a judgment against you, just as if there had been a trial. Then they can proceed to garnishee your salary, bank account or seize your property.

What if I want to pay the claim?

You may agree that you owe what is claimed. If that's the case, you may pay it directly to the claimant. Or you may contact the claimant to make some arrangements that you can both live with, and the claimant may withdraw the claim. Either way, that will end the lawsuit.

Alternatively, if you have reached an agreement, to pay all or some of the claim, you may both sign a Settlement Agreement (Form 7) and file it with the Registry or the claimant may file a payment order with the Registry. Nothing further would happen with the lawsuit, unless the terms of the agreement were not followed (Rule 13).

What if I don't agree with the claim?

If you and the claimant cannot agree, either on the claim itself, or on the terms of payment, there are several things that you may do:

- If you do owe what is claimed, but can't pay it right away, and can't agree with the claimant on a payment schedule, you may ask the court to set a schedule of payments that you can handle.
- If you don't agree with the claim, you may deny all or part of what the claimant says.
- If you say the claimant owes you money, that will set off his claim.
- You may make a counterclaim against the claimant (use Reply form (form 2) and Counterclaim form (form 3)).

Whatever you decide, you will use the Reply form (form2).

What is a Reply?

The Reply is your answer to the Notice of Claim. It is a special form you will use to tell:

- what you disagree with in the Notice of Claim, and why
- what, if anything, you agree with
- what, if anything, you are claiming against the claimant, and
- whether you want the Court to set a payment schedule.

How much time do I have to file my Reply?

Whether you were in Nunavut or outside of Nunavut when you received the Notice of Claim, you have 30 days to reply.

Even after the time limit has passed, the Court Registry may still file your Reply, as long as the claimant has not obtained a default judgment against you or had a hearing date set to determine what you owe in default.

Even if one of those things had happened, you may still ask the Court for permission to file a Reply after the time limit. You will have to have a good reason for your delay.

Where do I get a Reply form?

When the claimant gave or sent you the Notice of Claim, a blank Reply form should have been included with it. If it was not, or if you need another form, you may get one from the Nunavut Court Registry or go to the Nunavut Court of Justice website at www.nucj.ca. You may also call the Courthouse in Iqaluit and request a form.

How do I fill out the Reply?

The Small Claims Court forms are specially designed to be used by people who are not lawyers. You may find all the help you need on this sheet. If not, don't hesitate to ask the Court Registry staff for assistance.

Let's look at an actual Reply form and go through it step by step.

From (Defendant):

This is where you put your own name, address and telephone number. Again, copy your name as it appears on the Notice of Claim.

The address given on the Notice of Claim may not be the right one. You must be sure that the address you give is correct because this is where the Registry will send any further notices or information to you.

If your e-mail or mailing address changes at any time, be sure to notify the Small Claims Court Registry and all other parties to the lawsuit. Otherwise, they will continue to send mail to your old address and you won't know what is happening in your case.

To (Claimant):

This is where you put the name of the claimant. Simply copy the claimant's name, address and telephone number from the Notice of Claim.

PART A: I agree with the claim:

If you want to pay the claim but you need some time - and you can't come to an agreement with the claimant - fill in this space. In the spaces to follow, you may tell what sort of payment arrangements you want to make.

Most of us want to pay what we owe. Often the reason we don't is that we simply can't. Or we can't pay it right away. Sometimes installment payments may be the answer. Or a delayed payment date might satisfy both sides.

PART B: I do not agree with any part of the claim:

This is where you tell what you disagree with in the Notice of Claim. You should take some care with this part. Look at the "How much" section of the Notice of Claim. If the claim has more than one part - a, b, c, and so on - then you should reply to each part separately, using the same letters.

You may have already answered this in the AND TO (ADDITIONAL DEFENDANT) section but if you believe that the claimant should be going after someone else for the whole amount or for some of it, be sure to put it in here.

If there is anything in the Notice of Claim that you agree with, be sure to include that here. Otherwise, the claimant might have to spend money to prove it in court. The judge could order you to pay the claimant back for money that was wasted proving something that was never really an issue.

Try to be brief. You may have many other quarrels with the claimant, but don't include them here. Stick to only those items that appear in the Notice of Claim under "How much".

Don't worry about using "legal language". Just make your point in your own words.

Counterclaim Or Third Party Claim:

If you have a claim to make against the claimant, (fill in the appropriate box). A counterclaim is just another claim, like the one in the Notice of Claim, except that it is made by the defendant, against the claimant. It is important to correctly identify who you are suing. You have to fill in a Counterclaim form (form 3) and attach it to the Reply (form 2).

If you have a claim to make against someone else then you fill in the appropriate box. It is important to correctly identify who you are suing. You have to fill in a Third Party Claim form (Form 4) and attach it to the Reply.

What do I do with my Reply, after I've filled it out?

The next step is to file the Reply with the Court. You do that by taking or mailing it to the Small Claims Registry. The address will be on the Notice of Claim you received. If you have completed the Reply form online, make sure you print, sign and file it at the Registry.

When your Reply is filed, you will be asked to pay the filing fee unless you have agreed to pay the full claim.

You may pay by cash, personal or company cheque, certified cheque, money order or bank draft, payable to the Nunavut Court of Justice.

If you can, you should take it to the Registry yourself. The staff there will check the form for you and point out any errors or things you might have missed. They can't give legal advice but they are experienced in dealing with Small Claims forms and they may be very helpful.

If they have to mail a form back to you for corrections, you may run out of time.

What happens next?

Once the Registry has accepted your form(s), they will send a copy to each of the other parties in the case.

Mediation is the next step. You will receive a notice in the mail, telling you where and when it will be held and you must attend.

The mediator will discuss with both of you the possibility of settling the claim. If you have asked in your Reply for a payment schedule, that will be discussed during the mediation. If you reach an agreement, you will each sign a Settlement Agreement (Form 7) setting out the terms for payment.

Remember that at any stage, you are always free to try to work out some agreement with the claimant, which will put an end to the lawsuit.

What if I think there is someone else who should pay?

It may be that there is someone else who should be responsible for paying the claim. This is called a "Third Party Claim". If you have a Third Party Claim, ask your Small Claims Court Registry for a Third Party Notice (form 4). You will fill out the form, sign and file it in the Registry, just as you did with your Reply.

The third party will receive notice about the claim when they are served the following by the Sheriff (Rule 9):

- a copy of the Third Party Notice
- a copy of the Notice of Claim
- a copy of your Reply
- a copy of any Notice of Settlement Conference or Notice of Trial that has been issued, and
- a blank Reply form.

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