

## **B**

### **Small Claims Court Guide**

#### **Making a claim**

#### **How do I complete the Notice of Claim?**

On the Notice of Claim form you have to list who you are and who you are suing; what happened; where it happened; when it happened; and, how much you are suing for. The following are steps that will guide you in filling out the Notice of Claim form.

- **From (Claimant)**

If you are the claimant all you need to put here is your name, your mailing address and contact phone and fax number. This seems simple, and in most cases it is, but it's important to make sure you name the right claimant. For example, if you have a company, should you or the company or both be named as claimant? See the examples on the following pages to help you decide.

Your mailing address and your fax number are important because this is where the Court will send the Reply to your claim, and any other notices or other documents in connection with your case.

If your address changes at any time, be sure to notify the Court and all other parties to the lawsuit. Otherwise, they will keep sending mail to you at your old address and you won't know what is happening in your case.

- **To (Defendant)**

This is where you will answer the question, 'Who are you suing?'

You must be very careful when naming the defendant. If it's not exactly right, you may win your case but then be unable to get your money.

#### **A. If you are suing an individual:**

Use the person's full name. Initials are not enough.

*Say:* ROBERT JOHNSON,

*Not:* R.W. JOHNSON.

Do not use titles such as Mr., Miss or Dr.

*Say:* JOHN WILLIAMS and BETH WILLIAMS,

*Not:* Mr. and Mrs. WILLIAMS

## **B. If you are suing a company incorporated in Nunavut:**

Usually you can tell if you are dealing with an incorporated company because its name will end in "Limited" ("Ltd."), "Corporation" ("Corp."), or "Incorporated" ("Inc."). To get the correct name and address of the registered office you must request a company search. This may be obtained from:

### **Legal Registries**

*Location:* Department of Justice, 1<sup>st</sup> Floor, Brown Building  
Tel: 867-975-6590 Fax: 867-975-6594  
Email: legal.registries@gov.nu.ca

*Mail Address:* P.O.Box 1000, Station 570  
Iqaluit, Nunavut

The registered office may not be the place where the company carries on business, but the registered office address is the one you will put on the Notice of Claim. You must file a copy of the company search in the registry when you file your Notice of Claim.

Usually you will name only the company as defendant.

There are some cases, though, where both the company and the principal of the company would be defendants. These are cases where the principal has something to do with the case, beyond just being the principal of the company.

## **C. If you are suing a company incorporated outside Nunavut:**

If the company has no assets in Nunavut, you should start your claim in the jurisdiction where the company is incorporated.

You may start a claim in Nunavut against a company incorporated outside Nunavut if the company has assets in Nunavut and is not an extra-territorial company. It is strongly recommended that you do a company search before filing the Notice of Claim. The company search will help you obtain the correct legal name of the corporation. Having the correct legal name will increase your ability to enforce a judgment if the Court rules in your favour.

## **D. If you are suing a business which is not an incorporated company:**

Contact your City Hall or Hamlet office and ask for

- a) the correct name of the business, and
- b) the name of the owner.

You will want to name both the business and the owner so that if you get a judgment you may collect from either of them. Example: "Joe Smith, carrying on business as Smith Automotive"

**E. If you are suing a partnership:**

This is very much like suing a business. Name the partners and the partnership. Example: "Joe Smith and Marge Smith carrying on business as Smith and Smith Automotives"

**F. If you are suing a society:**

This is also very much like suing a business. You must obtain a printout of a search showing the proper name and the most recent address of the society. The search is done through the Legal Registries and you may get the telephone number and address from the section above which deals with suing a company incorporated in Nunavut.

**G. If it was an auto accident that led to your claim:**

You should name as defendants both the driver and the registered owner of the vehicle. You may get the owner's name and address by requesting an Accident Report to:

Director, Motor Vehicles Division  
Government of Nunavut  
P.O. Box 10  
Gjoa Haven, NU  
X0B 1J0  
TEL: (867) 360-4614  
FAX: (867) 360-4619

There is a fee for this information, which must be enclosed with the request. The Motor Vehicles Division accepts personal cheques.

**H. If you are suing the Government of Nunavut:**

You should name as a defendant:

HER MAJESTY THE QUEEN IN RIGHT OF GOVERNMENT OF NUNAVUT.

This is the legal name of the Government of Nunavut.

- **And To (Additional Defendant)**

If you are suing more than one defendant:

You may name more than one defendant if the claims against each of them are related. This is where you put in the name of any other defendant you are making a claim against.

- **What happened that led to this lawsuit, and**

This is the part where you tell what the case is about. You should think about this and try to put down the facts that are necessary to make your case.

You don't have to use "legal language". Just tell what happened. That doesn't mean you may leave out essential details. The defendant has to know exactly what the claim is about. Also, the judge will read this document to learn about your case.

- **When?**

Examples: \* when did the accident happen; \* when was the contract signed; \* when did the vehicle stop working, etc.

Again, you may have already answered this. It is here so the Court registry staff may be sure that your claim is being made in time.

There are time limits to most legal actions, and they may be quite complicated. It all depends on what kind of claim you have. You may want to talk to a lawyer about any time limits that may apply to your claim.

If you have tried to settle your differences and that hasn't worked, do not delay in making your claim.

- **Where?**

You may have already answered this question in the "What Happened?" section. It is here so the Court registry staff may be sure that your claim is being made in the right location. (We'll explain what that means later.)

You don't need the complete address here - the name of the city, town or hamlet will do.

If the case involves a breach of contract, tell where the contract was made or where the payments were to be made.

- **Location of the Trial:**

This is where you write the name of the community where you would like the trial to take place. Normally, it would be held in the community where the incident happened.

- **Is your claim for more than \$20,000?**

If your claim is for less than \$20,000 not including costs and expenses then fill in the "No" box.

- **Are you abandoning the amount over \$20,000?**

If your claim is over \$20,000 but you are willing to reduce the amount to \$20,000 fill in the “Yes” box. Remember, once you have abandoned part of your claim you can’t sue for it again.

- **The Defendant understands the language of this claim:**

You may start your action in any of the official languages in Nunavut, Inuktitut, Inuinnaqtun, English or French. If you know whether the defendant understands the language you have chosen to use in this claim, please indicate this by filling in the appropriate box. This is to make sure that the proper language is used when notifying the defendant.

### **What do I do with my Notice of Claim, after I've filled it out?**

The next step is to let the Court know about your claim by taking the Notice of Claim to the Small Claims Court registry. If you have completed the Notice of Claim form online, make sure you print, sign and file it at the registry. Remember, if you are suing a company or a society, you must also have a printout of the search along with your Notice of Claim.

When your Notice is accepted, you will be asked to pay the filing fee. You may pay this by cash, personal or company cheque, certified cheque, money order or bank draft, payable to the Nunavut Court of Justice.

It is possible to mail your Notice of Claim to the registry (don't forget the filing fee) but if you can, you should take it in personally. The registry staff will check your document for you and if they notice any errors you can usually fix them on the spot. You'll save the time it takes to mail documents back and forth.

If the Court is in your community, you may give your Notice of Claim to the Clerk for filing.

### **How much time do I have to get the Notice of Claim to the defendant?**

There is a year to do this. After that time, your Notice of Claim will expire. If you want to continue after that time, you could apply for a renewal.

### **Service**

The defendant must be given notice of the claim. This is done by providing the defendant with a copy of the Notice of Claim. The Sheriff of the Nunavut Court of Justice will arrange for service.

### **What happens next?**

After receiving your Notice of Claim, the defendant may contact you directly and offer to pay the claim or try to settle the case in some way. You are free to make whatever arrangements you want at any time. Just because you have filed a Notice of Claim with the Court, does not mean that you must continue with the claim.

If you are satisfied with what the defendant offers, you should withdraw your claim, once you are paid. If the defendant offers payments, you could both sign a Settlement Agreement (Form 7) and file it at the Registry. This may be enforced if payment stops.

If the defendant files a Reply and agrees to pay all or part of the claim, but you don't agree with how it is to be paid, you may file a payment order and ask for a payment hearing so that the Court may set a payment schedule.

If the defendant files a Reply disputing your claim, the registry will send you a copy of it and set a date for a mediation session.

The defendant has 30 days from the date the Notice of Claim was served to file the Reply.

If the defendant does nothing, you can ask the Court to give you a default judgment, which is enforceable just like a judgment made by a judge following a trial.

### **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