

Manitoba Small Claims Court Checklist – Claimants

Before you File a Claim

- Do you know the name of the person you want to claim against (the defendant) and do you have contact or address information? You want to make sure you have the correct name and address of the person you are making a claim against. This could be an individual or a business/corporation.
- What evidence do you have to support or prove your claim? Are there witnesses or documents such as bills, contracts, invoices?
- If you are successful in proving your claim, can you collect on the judgment? Remember that as a judgment holder you are responsible for collecting on the judgment, not the court.

Preparing and Filing the Claim (Form 76A)

- Insert on the claim the full legal name and address of all claimants and defendants.
- See the **Sample Claims/Counterclaims** for information on what to include in the title of proceedings area of the claim.
- Do not use initials (for example, M. McDonald) or titles such as Dr., Mr. or Mrs.
- If there is more than one claimant or defendant, include each person's full legal name separated by the word "and".
- Write out each person's full address and postal code even if they each live at the same address or carry on business at the same address (see Sample 1).
- Make sure all names are spelled correctly.
- Take care to name the defendant correctly. If you put in the incorrect name for the defendant, the judgment or certificate of decision will include the incorrect name. If you are successful, you may not be able to collect the money owing to you on the judgment from the incorrectly-named defendant.
- If your claim is against a business or corporation, you should do a search of the business name at the Companies Office in Winnipeg at 1010–405 Broadway or by e-mail: companies@gov.mb.ca.
- If the business is incorporated, write out the corporation's correct name, including words such as "Ltd.", "Limited", "Inc.", "Incorporated", "Corp." or "Corporation".
- If the business is not incorporated, but is an individual who carries on the business as a sole proprietor or owner, you may name both the sole proprietor and the business name. You may use "c.o.b." as a short form for "carrying on business" (see Sample 3).
- If the defendant is also known by another name you should name each of the different names as a separate defendant. You may use "a.k.a." as a short form for "also known as" (see Sample 6).

NOTE: You must serve each defendant named on the claim (see **Service of Documents**).

- For some defendants, such as a municipality or a Crown corporation, there may be specific instructions in a statute as to how you are to name them as a defendant and how you are to serve them with a claim.
- If you are filing a claim against a party under a disability, which includes a minor (person under 18 years old), you will have to name a litigation guardian for the party under disability. You should review **Queen's Bench Rules 76.16 to 76.24**.
- Claim the correct amount of your loss.
- File the Small Claim, with the filing fee, at the nearest court office.
- If you live outside of Manitoba you must also pay security for costs of \$150.

Serving (delivering) the Claim

- Please review **Service of Documents** for detailed information on how to serve the documents.
- After you have served the documents you must prepare a Declaration of Service (**Form 76B**) for each defendant that was served and file it at the court office where you filed your claim.
- If you cannot serve a copy of the claim within the 30 days from when you filed it, you may apply for an order to extend the time for service (**Form 76C**).
- If you have made several attempts to serve the defendant both personally and by registered mail and have not been successful, you may apply for an **Order for Substitutional Service**.

NOTE: Be open to settlement discussions with the defendant before and at the hearing.