

## SMALL CLAIMS COURT - MANITOBA

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### ***General Information***

Small Claims Court is a part of the Manitoba Court of Queen's Bench and hears claims for an amount of money that does not exceed \$10,000.00 (excluding interest, costs and disbursements). The claim may include general damages up to \$2,000.00. General damages are not specific damages but a general amount that may be awarded by the court. You may also bring a claim to dispute liability resulting from a [Motor Vehicle Accident Claim](#).

There may be alternatives to filing a Small Claim, such as mediation services that may lead to a mediated settlement of your dispute with the other person. For example, in the case of disputes involving automobile warranties, the Canadian Motor Vehicle Arbitration Plan (CAMVAP) at: [www.camvap.ca](http://www.camvap.ca), may be an option.

If you do decide to file a Small Claim, the Court Officers who hear Small Claims may also be able to resolve your claim through mediation, if you and the defendant are open to trying to settle the dispute that way.

Small Claims Court procedures are set out in *The Court of Queen's Bench Small Claims Practices Act* and the Manitoba Court of Queen's Bench Rules, Rule 76. Follow this link to view Acts and Court Rules: [www.web2.gov.mb.ca/laws/](http://www.web2.gov.mb.ca/laws/).

Small Claims are usually heard by Court Officers who may or may not be legally trained but have experience and training in the court system. Some Small Claims may be heard by judges of the Court of Queen's Bench.

Small Claims Court is designed to hear claims in a less formal way. Evidence rules that must be followed in the Court of Queen's Bench do not have to be followed in Small Claims Court.

A Court Officer may hear as evidence anything that he or she considers relevant to the issue(s) involved in the claim. The hearing is recorded and a transcript can be ordered.

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Hearings and documents are available in French and English. The Government of Manitoba provides [Interpretation Services](#) for both official languages at no cost, contact 204-945-5383 **in advance of your hearing** for more information. If you require an interpreter for any other language, please contact the Language Bank at 204-943-9158 to make arrangements **in advance of the hearing** at your own cost.

Small Claims Court **cannot** hear a claim involving the following kinds of disputes:

- between landlords and tenants, involving a residential tenancy (contact the Residential Tenancy Board to confirm whether or not they will assist you with your claim),
- ownership of land or an interest in land,
- the administration of a trust or an estate,
- family matters that are under the authority of the Family Division of the Court of Queen's Bench,
- malicious prosecution, false imprisonment, defamation, or
- allegations of wrongdoing by a judge or justice.

### **Filing Fees**

The current filing fees for Small Claims are:

- for amounts up to \$5,000: \$50.00
- for amounts from \$5,000.01 to \$10,000\*: \$75.00
- for foreign claimants (outside of Manitoba) \$150.00 additional fee for security for costs. The court will retain this amount until the hearing. The court will order the payment returned or will make another order concerning the funds at a hearing date.

\*If your claim exceeds \$10,000.00 you may waive the excess amount to allow for the claim to be heard in Small Claims Court.

### **Who Can File a Small Claim?**

- An individual 18 years of age or older,
- a parent or guardian on behalf of a child (under 18 years of age),
- a person acting on behalf of a person under a disability (litigation guardian/committee/substitute decision maker), or
- a business or corporation.

### **Role of Court Staff**

Court office staff can:

- answer questions about court processes and provide information as to how to obtain a copy of the laws and rules that apply to Small Claims Court process,
- tell you whether you have completed your court form so that it can be filed,
- provide you with information about how to get a lawyer.

The information provided by court staff is not legal advice and is offered to help you prepare for Small Claims Court.

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Court staff cannot:

- give you advice on who should be named as claimants or defendants. If you require advice, you may need to speak with a lawyer,
- give you opinions or advice about your claim, or
- help you to write or complete the information required in the court forms.

**NOTE:** The Legal Help Centre provides free legal information and assistance to persons who qualify: Phone: 204-258-3096 or Email: [info@legalhelpcentre.ca](mailto:info@legalhelpcentre.ca)

### **Where are Small Claims filed and heard?**

Small Claims can be filed at various court centres in Manitoba and the hearing of the claim can take place either in that court centre or one of its circuit locations. The general rule is that a claim should be heard at the court centre or circuit location nearest to where the defendant lives or where the dispute happened. Below is a list of all court centres in Manitoba where a claim can be filed and where the hearings of those claims can be held.

Boissevain (circuit location)	<u>For filing:</u> 100-1104 Princess Avenue, Brandon R7A 0P9 <u>For hearings:</u> 420 South Railway Street, Boissevain R0K 0E0	<u>Phone:</u> 204-726-6240 <u>Fax:</u> 204-726-6547
Brandon	100-1104 Princess Avenue R7A 0P9	<u>Phone:</u> 204-726-6240 <u>Fax:</u> 204-726-6547
Dauphin	114 River Avenue West R7N 0J7	<u>Phone:</u> 204-622-2087 <u>Fax:</u> 204-622-2099
Flin Flon	104-143 Main Street R8A 1K2	<u>Phone:</u> 204-687-1670 <u>Fax:</u> 204-687-1673
Minnedosa	70-3rd Avenue South West R0J 1E0	<u>Phone:</u> 204-867-4722 <u>Fax:</u> 204-867-4720
Morden	301 Wardrop Street R6M 1X6	<u>Phone:</u> 204-822-2882 <u>Fax:</u> 204-822-2883
Portage la Prairie	<u>For filing:</u> 25 Tupper Street North R1N 3K1	<u>Phone:</u> 204-239-3383 <u>Fax:</u> 204-239-3402

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	<p><u>For hearings:</u> 20-3rd Street South East R1N 1M9</p>	
Russell (circuit location)	<p><u>For filing:</u> 70-3rd Avenue South West, Minnedosa R0J 1E0</p> <p><u>For hearings:</u> 106 Shell River Avenue South, Russell R0J 1W0</p>	<p><u>Phone:</u> 204-867-4722 <u>Fax:</u> 204-867-4720</p>
St. Boniface	100-614 Des Meurons St. Winnipeg MB R2H 2P9	<p><u>Phone:</u> 204-945-8010 <u>Fax:</u> 204-945-5562</p>
Selkirk	101-235 Eaton Avenue R1A 0W7	<p><u>Phone:</u> 204-785-5122 <u>Fax:</u> 204-785-5125</p>
Steinbach Provincial Court (circuit location)	<p><u>For filing:</u> 101-614 Des Meurons St., Winnipeg MB R2H 2R1</p> <p><u>For hearings:</u> Unit A-284 Reimer Avenue, Steinbach R5G 0R5</p>	<p><u>Phone:</u> 204-945-8010 <u>Fax:</u> 204-945-5562</p>
Swan River	201-4th Avenue South R0L 1Z0	<p><u>Phone:</u> 204-734-2252 <u>Fax:</u> 204-734-9544</p>
The Pas	300-3rd Street East R9A 1L2	<p><u>Phone:</u> 204-627-8420 <u>Fax:</u> 204-623-6528</p>
Thompson	59 Elizabeth Drive R8N 1X4	<p><u>Phone:</u> 204-677-6757 <u>Fax:</u> 204-677-6686</p>
Virден	232 Wellington Street West R0M 2C0	<p><u>Phone:</u> 204-748-4288 <u>Fax:</u> 204-748-2980</p>
Winnipeg	<p><u>For filing:</u> 100C-408 York Avenue R3C 0P9</p> <p><u>For hearings:</u> 3rd Floor, 373 Broadway R3C 4S4</p>	<p><u>Phone:</u> 204-945-3138 <u>Fax:</u> 204-948-2369 <u>Email:</u> <a href="mailto:smallclaims@gov.mb.ca">smallclaims@gov.mb.ca</a> <u>Phone:</u> 204-945-5383</p>

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### ***Checklist – Completing the Small Claim (Form 76A) (see [Motor Vehicle Accident Claim](#), if the claim is to determine liability)***

- Do you know the name and address of the person and/or business 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 for the purpose of [Collecting on Your Judgment](#);
- If your claim is against a business or corporation, to ensure you have accurate information, we recommend a search of the registered business name at the Companies Office in Winnipeg at 1010–405 Broadway or by e-mail: [companies@gov.mb.ca](mailto:companies@gov.mb.ca);
- Insert on the claim form the full name and address of all claimants and defendants. Do not use initials (for example, M. McDonald) or titles such as Dr., Mr. or Mrs., see [Sample Claims/Counterclaims](#);
- If there is more than one claimant or defendant, include each person or business name separated by the word “and”, see [Sample 1](#);
- 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](#);
- 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 the defendant is a business, ensure the name is exactly as registered with the Companies Office. If not registered, you should have some proof of the company name being used;
- If the business is not registered, 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 defendant on [Sample 2](#);
- 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 3](#);
- If the claimant is under 18 or a person under a disability, a Consent to Act as Litigation Guardian (**Form 760**) should be filed with the court.

Once you have completed the Small Claim form, you are ready to file it with the court, see [Filing Fees](#) and [Where are Small Claims filed and heard?](#)

### ***Checklist - Motor Vehicle Accident Claim***

**IMPORTANT:** Motor vehicle accident claims are usually heard on the first appearance date indicated on the Small Claim form. You should be prepared to proceed.

- Do you know the name and address of the person and/or business who is the driver and owner of the each vehicle involved in the accident? If not, contact your Manitoba Public Insurance adjuster. If you do not own the vehicle you were driving at the time of the accident, you must also list the owner of the vehicle as a claimant;

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- Insert on the claim form your full name and address of all claimants and defendants. Do not use initials (for example, M. McDonald) or titles such as Dr., Mr. or Mrs., see [Sample 4](#);
- If there is more than one claimant or defendant, include each person or business name separated by the word "and";
- If the claimant is under 18 or a person under a disability, a Consent to Act as Litigation Guardian (**Form 760**) should be filed with the court.

Once you have completed the Small Claim form, you are ready to file it with the court, see [Filing Fees](#) and [Where are Small Claims filed and heard?](#)

For information regarding delivering the claim form to the defendant(s), see [Serving the Small Claim \(Form 76A\) and Notice of Appearance \(Form 76D\)](#)

**NOTE:** If you are making a claim about whether you are at fault for a car accident, you must deliver a copy of the claim in person or by registered mail to the Manitoba Public Insurance Corporation either at the MPI Legal Department, at the 8<sup>th</sup> floor–234 Donald Street, P.O. Box 6300, Winnipeg, MB, R3C 4A4 or to an MPI Service Centre in Manitoba.

For a listing of MPI Service Centres in Manitoba please go to:  
<https://www.mpi.mb.ca/en/Contact/Locations/Pages/locations.aspx>.

### ***Checklist –Serving (delivering) Documents***

#### ***Serving the Small Claim (Form 76A) and Notice of Appearance (Form 76D)***

- You must serve a copy of the Small Claim and Notice of Appearance on each defendant **within 30 days** of filing your claim. Even if the defendants are related, each defendant must receive his or her own copy of these documents by one of the following methods:
  - Deliver personally to the defendant by handing him or her a copy,
  - Deliver a copy personally to a person who appears to be at least 16 years old, at the home of the defendant,
  - Deliver a copy by registered mail (use a separate envelope for each named defendant). Delivery services such as Express Post and/or courier are not acceptable methods of service.

**NOTE:** If the defendant is a corporation, deliver a copy of the claim to a director or officer of the corporation. If you are sending the claim by registered mail, send it to the attention of a named director or officer, i.e., 234567 Manitoba Ltd., Attention: John Dough, Director.

Once you have served all parties, file with the court a Declaration of Service (**Form 76B**) for each party that was served.

**Unable to serve?** If you have made several attempts to serve a defendant both personally and by registered mail and have not been successful, see [How to Obtain Order for Substitutional Service](#), ask court staff for a copy of our guide or view it on-line at [www.manitobacourts.mb.ca](http://www.manitobacourts.mb.ca) in the *Frequently Asked Questions* section for Small Claims.

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If you think you can serve the defendant(s) but need more time, you can contact the court office in advance of your hearing date to request an Order Extending Time for Service (**Form 76C**). It is also possible to request more time when you appear at the hearing.

### ***Serving the Counterclaim (Form 76E)***

- You must serve a copy of the Counterclaim on each person and/or business named as a claimant immediately after filing it with the court office, see [Serving the Small Claim](#) for delivery instructions.
- Once you have served all parties, file with the court a Declaration of Service (**Form 76B**) for each party that was served.

### ***Serving the Application to Set Aside the Decision***

- You must serve a copy of the application on each other party (claimants/defendants) within 20 days after you filed the application with the court, see [Serving the Small Claim](#) for delivery instructions.

### ***Serving a Third Party Order***

- Where a Court Officer has made an order that another person be added as a Third Party to the claim and has directed that you serve a copy of the order, you must serve a copy of the Third Party Order, along with a copy of the Small Claim and Notice of Appearance, on the third party, and any other party, as directed by the Court Officer.

Once you have served all parties, file with the court a Declaration of Service (**Form 76B**) for each party that was served.

If you are not able to serve the Third Party Order, attend the Hearing date as scheduled and explain the issue to the Court Officer.

### ***Serving the Application for Leave to Appeal and Notice of Appeal (Form 76K)***

- You must serve (deliver) a copy of the Application for Leave to Appeal and Notice of Appeal on each claimant, defendant, and third party within **20 days** of filing it with the court office. You must use one of the methods listed in [Serving the Small Claim](#).
- If you are unable to serve a party within the 20 day time period, you may ask the court to extend the time for service.

If you have served all parties, file with the court a Declaration of Service (**Form 76B**) for each party that was served.

### ***Serving a Subpoena***

If you intend to pursue a penalty against a Manitoba witness who does not attend, you must serve a Subpoena personally on the witness along with attendance money, see Tariff B of the Court of Queen's Bench Rules. If you do serve the witness personally, file an Affidavit of Service

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(**Form 16B**) with the court prior to the hearing. The Small Claims Court cannot enforce a Subpoena (penalty or warrant) but you may request time to pursue these options on the hearing date. This type of Subpoena must be served **at least 3 days** prior to the hearing date.

If you do not intend to pursue penalty for non-appearance, you may serve the Subpoena by regular or registered mail or by leaving it with someone other than the witness or personally. You are not required to file proof of service with the court and there is no specific date that the Subpoena must be served.

Regardless of whether or not a Subpoena must be served, you should consider that the witness will need to make arrangements to attend on the hearing date and serve the document as soon as possible.

**NOTE:** A Subpoena is not required for every witness, see [Evidence and Witnesses](#) for more information.

### ***Checklist - Settlement***

**If the claim resulted in a Certificate of Decision (Judgment) and your judgment amount has been paid,** A Notice of Satisfaction (**Queen's Bench Rule 59** and **Form 59C**) or letter stating the judgment has been paid in full should be filed with the court by the judgment creditor to complete and close the court file.

**If, prior to the court hearing, the claimant is paid in full,** they should file a Notice of Discontinuance (**Form 23A**) of the claim before the hearing date. If the claimant agrees to payment arrangements, they should contact the court office and ask that the hearing date be set in the future (adjourned) and provide you that date.

**When the claimant and the defendant attend court,** the Court Officer may discuss the potential for the parties to settle the matter. Attempting to settle the claim is recommended for the following reasons:

- The claimant and/or the defendant may not be satisfied with the decision of the Court Officer;
- Decisions appear on your court file and become records of the court. Court records are accessed by credit agencies to gather information that may form part of your personal credit record;
- Payment should be made voluntarily preventing you from incurring further costs to enforce your Judgment, see [Collecting on Your Judgment](#).

### ***Checklist - I have been served with a Small Claim***

- Once you are served with a Small Claim (**Form 76A**) and the Notice of Appearance document (**Form 76D**), review the claim amount, reasons and date set for the Hearing.
- If you cannot attend the hearing on the date noted on the claim, contact the claimant to determine if he or she will agree to a different hearing date. If the claimant is agreeable,



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one of the parties must contact the court office to obtain a new hearing date followed by written confirmation being provided to the court from the claimant and defendant.

- If the claimant does not agree to a different hearing date, you or someone representing you will have to appear at the hearing to ask the Court Officer for a new hearing date. **NOTE:** sending someone on your behalf does not guarantee that a Judgment will not issue against you for failure to appear. Ensure you or your representative are prepared to explain in detail, along with any proof, why the hearing should not proceed in your absence.
- If you agree that you owe the amount claimed or a portion of it, you can contact the claimant before the hearing date to offer a payment arrangement to settle the claim, see [Settlement](#).
- If you are unable to reach an agreement or dispute the claim, complete the Notice of Appearance and provide it to the court office as soon as possible (mail or in person). This notifies the court that you dispute the claim or that you agree to some or all of the amount claimed, or that you are requesting time for payment.
- If you also have a claim you wish to make against the claimant, you may file a Counterclaim, see [Counterclaims](#).
- If the claimant owes you money and you do not want to file a counterclaim, state this in your Notice of Appearance (**Form 76D**) and be prepared to prove this at the hearing. The amount may result in a set off to the amount claimed by the claimant. You should bring with you to the hearing any documents that may support your position that the claimant owes you money, see [Evidence and Witnesses](#).
- Consider whether someone else, not named as a defendant, is responsible for the claimant's loss. If so, you may ask the Court Officer at the hearing for a Third Party Order (sec.8.7(1) and (2) of *The Court of Queen's Bench Small Claims Practices Act*).
- If a defendant is under 18 or a person under a disability, a Consent to Act as Litigation Guardian (**Form 76O**) should be filed with the court.

**NOTE:** If you think you need help in defending or responding to the claim, you should seek legal advice. The Legal Help Centre provides free legal information and assistance to persons who qualify: Phone: 204-258-3096 or Email: [info@legalhelpcentre.ca](mailto:info@legalhelpcentre.ca)

### ***Counterclaims (Form 76E)***

A counterclaim can be filed when you believe that the person/business that has made a claim against you owes you money. Complete the claim in the same manner as a claim, see [Completing the Small Claim Form](#).

- Once you have filed the Counterclaim, immediately serve the Counterclaim on each claimant, see [Serving the Counterclaim](#).

### ***Checklist - Your First Court Appearance***

- If your claim is being heard at the Winnipeg Centre (373 Broadway), and your claim is **not** a [Motor Vehicle Accident Claim](#), your first court appearance will be to determine how much time is required for a hearing and to allow the court an opportunity to mediate any settlement and/or manage your matter in terms of issues that will need to be resolved or addressed prior to a hearing taking place. Court staff will not issue a subpoena for this first court date and you do not need to bring any witnesses until a hearing date is set.

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- You may refer to the Court Officer as “Sir” or “Madam”.
- Come to court prepared to talk to the other side, to show the other side your documents, and to discuss settling the claim.
- Even if the defendant fails to appear, the claimant still has to prove his or her claim.
- A Court Officer will ask about the claim (What are the issues? What is the evidence to be presented? Have there been discussions between the defendant/claimant about possible [Settlement](#)) and may also be able to resolve the claim through mediation if both the claimant and defendant are open to trying to settle the dispute that way.
- Total up your Claim or Counterclaim, including costs, disbursements (examples are amounts paid for registered mail or other service), and calculation of any interest. Prepare any questions or arguments.
- If the parties are ready to proceed, the claim **may or may not** be heard on this day. The hearing may be adjourned to another date. If the hearing is adjourned, you will be asked about dates you are available.
- You may ask for costs and disbursements; bring receipts for your disbursements (for example, receipts for service of the documents).
- See also [Evidence and Witnesses](#).

**NOTE:** You are required to give evidence under oath or affirmation. A Bible is available in the courtroom, or you may affirm to tell the truth without swearing an oath on the Bible. If you prefer to make an oath on another sacred object or sacred book, please bring it with you to court.

### ***Checklist - Evidence and Witnesses***

You should contact the court office in advance of the hearing to determine whether or not you should bring witnesses to your first court appearance date. **Not all hearings proceed on the first appearance date.**

- Arrange for the attendance of your witnesses. A letter or report from a witness will not likely be considered in the absence of the witness.
- A subpoena **is not** mandatory, if your witness will attend voluntarily. If it is necessary, a subpoena is a court form that requires a witness to attend court and give evidence and/or to bring documents to court, please contact the court office. (see also [Serving a Subpoena](#))
- If there is a witness who is out of the province and cannot attend, you may write to the court asking whether the witness may give evidence by telephone.
- Prepare questions for witnesses – organize your questions so that your story is told in a logical way from beginning to end.

**NOTE:** Witnesses are required to give evidence under oath or affirmation. A Bible is available in the courtroom, or you may affirm to tell the truth without swearing an oath on the Bible. If your witnesses prefer to make an oath on another sacred object or sacred book, please bring it with you to court.

- All documents that you intend to present to the court as evidence to support your claim or defence **must** also be provided to the other party. Bring with you your copy, a copy for the court and a copy for the opposing party.

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**Note:** Evidence that was provided at the hearing may be filed as an exhibit by the Court Officer. The documents will be kept by the court pending the appeal period and returned to the parties at a later date.

### ***Checklist – What if I Did Not Appear at the Hearing?***

#### ***Defendant***

- If you did not appear at the hearing, you will receive from the court office a Certificate of Decision and a Summary of Reasons which will set out the decision given by the Court Officer in your absence. If your mailing address has changed, contact the court office immediately. You can access this decision by viewing Manitoba Courts on-line at: [www.jus.gov.mb.ca](http://www.jus.gov.mb.ca).
- If you did not appear and dispute the decision, you may consider filing an Application to Set Aside Decision (**Form 76I**).
- The Court Officer may set aside the decision only if he or she is satisfied that:
  - you did not wilfully or deliberately fail to appear at the hearing;
  - you filed your application as soon as reasonably possible after learning of the decision on the claim or gave a satisfactory explanation for any delay in filing your application; and
  - it is fair and just in the circumstances to set aside the decision.Be prepared to explain why you did not appear.
- The Application to Set Aside the Decision should be filed at the court centre where the claim was filed.
- There is no fee for filing the Application to Set Aside Decision but you must pay into court the amount of \$150.00 for security for costs in guaranteed funds (cash, certified cheque or money order).
- When you file the Application to Set Aside Decision with the court, you will be provided the date, time and place for the hearing of the application.
- You must serve (deliver) a copy of the Application to Set Aside Decision on every other party to the claim, see [Serving Documents](#).
- If the decision of the Court Officer is to set aside the decision on the claim, the decision becomes null and void and is no longer in effect from the date of the decision to set it aside.
- If the decision of the Court Officer is to not set aside the decision on the claim, then the original decision remains in effect and may be enforced as a judgment of the court.
- There is no appeal from the decision of a Court Officer on an Application to Set Aside Decision.

#### ***Claimant***

- If you did not appear at the hearing, the Court Officer or judge would have either adjourned the hearing of the claim to another date or dismissed your claim.
- If the Court Officer adjourned the hearing of the claim to another date, you will be advised by the court office of the new hearing date.

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- If your claim was dismissed, you will receive a Certificate of Decision – Claimant Not at Hearing. In order to proceed with the claim, you must file another claim.

### ***Checklist –Appealing the Decision***

#### ***Appeal from a Decision of a Court Officer***

- You can only appeal on a question of law or jurisdiction and with leave or permission of a judge of the Court of Queen’s Bench. A mistake of jurisdiction is when the Court Officer makes a mistake regarding his or her legal authority to make his or her decision. A mistake of law is when the Court Officer makes a mistake regarding a legal principle or statute. An appeal is not available on mistakes regarding the facts of the case.
- Prepare and file an Application for Leave to Appeal and Notice of Appeal (**Form 76K**) **within 30** days from the filing date on the Certificate of Decision.
- The cost to file an Application for Leave to Appeal and Notice of Appeal is \$35.00.
- If you are unable to file an Application for Leave to Appeal and Notice of Appeal within the 30 days from the filing date on the Certificate of Decision, you may apply to a judge to ask that the time for filing the Application for Leave to Appeal and Notice of Appeal be extended and this is done by filing a Notice of Motion to Extend Time (**Form 37A**). There is a fee for filing a Notice of Motion.
- Upon the filing of the Application for Leave to Appeal and Notice of Appeal, the court will schedule an appointment for the date, time and place for the hearing of your leave application.
- Serve the Application for Leave to Appeal and Notice of Appeal on all the other parties within 20 days of filing. Please review [Serving Documents](#) for instructions.
- After an Application for Leave to Appeal and Notice of Appeal are filed with the court, all steps taken to enforce the decision of the Court Officer are stayed (stopped) and the stay continues until further order of the court. A Certificate of Decision will be mailed to all of the parties that sets out the judgment of the court and the appeal judge may also provide written reasons for his or her decision and if so, you will also receive a copy of those reasons.
- A Certificate of Decision on the appeal is a judgment of the court and may be enforced, see [Collecting on Your Judgment](#).
- The appeal decision of the judge is final and cannot be appealed further.

#### ***Appeal from a Decision of a Judge of the Court of Queen’s Bench***

- If your Small Claim was heard before a judge of the Court of Queen’s Bench and not a Court Officer, and you wish to appeal the decision, you may do so only on a question of law or jurisdiction and with leave or permission of a judge of the Manitoba Court of Appeal.
- Your Application for Leave to Appeal and Notice of Appeal must be made within 30 days of the date on the Certificate of Decision.
- A mistake of jurisdiction is when the judge makes a mistake regarding his or her legal authority to make his or her decision. A mistake of law is when the judge makes a mistake

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regarding a legal principle or statute. An appeal is not available on mistakes regarding the facts of the case.

For further information on the Court of Appeal process, go on-line at: [www.manitobacourts.mb.ca/court-of-appeal](http://www.manitobacourts.mb.ca/court-of-appeal) or contact the Court of Appeal office at 204-945-2647.

### ***Checklist – Collecting on Your Judgment***

- 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.
- The Certificate of Decision confirms the decision of the court. If there is an award of money, this becomes a judgment of the court, which some credit bureaus register against the credit of the unsuccessful party.
- The judgment is good for 10 years. Contact the court before the expiry of the judgment for information on how to extend the judgment if any portion of it is still not satisfied.
- Fees paid for to enforce your judgment may be added to the amount of your judgment and some fees paid by you for serving the documents.
- The party who is successful and receives a judgment is referred to as the judgment creditor, and the party that the judgment is against is referred to as the judgment debtor. There are several methods available through the court to assist the judgment creditor in collecting on the judgment. The judgment creditor may use one or more of the following methods of enforcement:

### ***Notice of Garnishment (Court of Queen’s Bench Rule 60)***

- You must prepare and file the Notice of Garnishment (**Form 60E**) with the court. The filing fee is \$50.00. You must then serve the Notice of Garnishment on the garnishee (for example, the judgment debtor’s employer, bank, or credit union) by personal service, registered mail or regular mail.

### ***(a) Wages, salary or other money owed to the judgment debtor***

- The rules of court allow a judgment creditor to garnish from the employer of the judgment debtor some of his or her wages or salary toward satisfying the judgment. You would have to know where the judgment debtor is employed to take this step.
- The garnishee must pay a portion of the wages or salary owing to the judgment debtor into court.
- Other money due to the judgment debtor may also be garnished in some cases, such as rental payments. You need to know the name and address of the person or business that owes money to the judgment debtor.
- The Notice of Garnishment is subject to certain exemptions and the judgment debtor may take steps to have the garnishment set aside by the court.
- A Notice of Garnishment for wages remains in effect for one year after it is served on the garnishee.
- Depending on how much money is owed on the judgment, you may have to obtain further garnishments in order to collect the full amount of the judgment.

## SMALL CLAIMS COURT - MANITOBA

### ***(b) Bank/Credit Union Accounts***

- A Notice of Garnishment can also be served on bank/credit union accounts of the judgment debtor.
- You need to know where the judgment debtor holds a bank or credit union account.
- The Notice of Garnishment requires the bank/credit union (garnishee) to pay into court all funds in the account on the day it is served on the bank/credit union up to the amount stated in the Notice of Garnishment.
- The Notice of Garnishment is effective only on the day it is served.

### ***Certificate of Judgment***

- A Certificate of Judgment ([Schedule "A" of The Judgments Act](#)) can be registered against real property owned by the judgment debtor.
- You can obtain a Certificate of Judgment from the court office where your judgment is registered. There is a \$20.00 fee for this process.
- You must then register the Certificate of Judgment at the Land Titles Office for the area where the judgment debtor owns land.
- This creates a lien on the property of the judgment debtor. The name of the judgment debtor **must** appear on the title of the property or land.
- Once the Certificate of Judgment is registered, the title can **only** be transferred if the amount of the judgment is paid.

For information on how a judgment creditor might take action to collect on the lien and whether there are any time limits, contact the Property Registry and/or Manitoba Land Titles at 204-945-2042 or on-line at [www.tprmb.ca](http://www.tprmb.ca)

### ***Writ of Seizure and Sale***

- A Writ of Seizure and Sale (**Form 60A**) directs the Manitoba Sheriff to seize and sell belongings of the judgment debtor equal to the amount owing on the judgment, and applicable costs/fees.
- There is a \$20.00 filing fee to obtain A Writ of Seizure and Sale. There are also additional fees charged by the Manitoba Sheriff such as towing, storage, appraisal, auctioning, and advertising. If successful, these fees are deducted from the money collected from the sale of the seized belongings. Because this method of enforcement can vary in cost, it is suggested the judgment creditor contact the nearest Sheriff office for further information.

**SMALL CLAIMS COURT - MANITOBA**

***Sample Claims/Counterclaims***

**Sample 1 – Claim by two individual claimants against two individual defendants:**

**THE QUEEN'S BENCH**

Winnipeg Centre

BETWEEN: John Dough                      AND                      Jane Dough  
123 Main Street                              123 Main Street  
Winnipeg, MB R1A 2B3                              Winnipeg, MB R1A 2B3  
  
claimant

-and-

Holly Daie                                      AND                                      Summer Daie  
456 Any Avenue                                      456 Any Avenue  
Winnipeg, MB R2B 3C4                                      Winnipeg, MB R2B 3C4  
  
defendant

**Sample 2 – Claim by an individual against a registered business carrying on business by another name not registered. Counterclaim by a business against an individual – no change to location or names of parties on documents:**

You have done a Companies Office search and found out that the defendant's roofing company is incorporated and its corporate name is "Rainy's Roofing (1998) Inc.". However, they advertise and invoice using another version of the registered name.

**THE QUEEN'S BENCH**

Winnipeg Centre

BETWEEN: Theodore E. Behr  
789 Main Street  
Winnipeg, MB R1A 2B3  
  
claimant

-and-

Rainy's Roofing (1998) Inc.                      AND                      Rainy's Roofing  
c.o.b. as Rainy's Roofing                              111 Industrial Park  
111 Industrial Park                                      Winnipeg, MB R2F 1G2  
Winnipeg, MB R2F 1G2

**SMALL CLAIMS COURT - MANITOBA**

**Sample 3 – Claim by an individual against an individual also known by another name:**

**THE QUEEN’S BENCH**

Winnipeg Centre

BETWEEN: Theodore E. Behr  
789 Main Street  
Winnipeg, MB R1A 2B3

claimant

-and-

Jonathan Smith  
a.k.a John Smith  
791 Main Street  
Winnipeg, MB R2F 1G2

AND

John Smith  
791 Main Street  
Winnipeg, MB R2F 1G2

defendant

**Sample 4 – Motor Vehicle Accident claim by a driver and owner against a driver and owner. If owner and driver are same person, indicate “driver/owner” beside the name:**

**THE QUEEN’S BENCH**

Winnipeg Centre

BETWEEN: Bert Wheeler (driver)  
123 Anywhere Road  
Winnipeg, MB R6T 2R2

AND

Ernie Wheeler (owner)  
123 Anywhere Road  
Winnipeg, MB R6T 2R2

claimants

-and-

Kerr Trolley (driver)  
456 Storm Drive  
P.O. Box 100000  
R.M. of West St. Paul, MB R9K 4L4

AND

The City of Winnipeg (owner)  
510 Main Street  
Winnipeg, MB R3B 1B9  
Attention: City Clerk

Defendants