



# Manitoba Court of King's Bench

## Small Claims

### OBTAINING AN ORDER FOR SUBSTITUTIONAL SERVICE

If you gave your evidence of service under oath before a court officer and the court officer granted an *Order for Substitutional Service*, skip to **STEP 2**.

#### STEP 1

- Prepare an *Affidavit of Attempted Service* (see Sample 1 below) outlining all the attempts you have made to try to serve the other party.
  - Each paragraph should state one fact.
  - Create a separate paragraph for each attempt you have made.
  - State how you know where the other party resides.
  - A Deputy Registrar can witness your signature on the *Affidavit of Attempted Service* when you attend the court office to file the document.
- Prepare an *Order for Substitutional Service* (see Sample 2 below) and state how you intend to serve the document.
  - The *Order for Substitutional Service* must be filed in triplicate.

#### STEP 2

- Attend the court office with your *Affidavit of Attempted Service* and *Order for Substitutional Service*.
- If the Deputy Registrar is satisfied with the attempts you have made, they will witness your signature on your *Affidavit* and sign the *Order*. If you need more time to serve your documents, the Deputy Registrar will also issue an *Order Extending Time for Service*.

#### STEP 3

- Serve the document, any *Orders Extending Time* that were issued, and the *Order for Substitutional Service* on the other party using the method granted in your *Order for Substitutional Service*.

#### STEP 4

- After you have served all the documents substitutionally, prepare an *Affidavit of Service by Substitutional Service* (see Sample 3 below) stating how you served the documents, based on the *Order for Substitutional Service*.
- File your *Affidavit of Service by Substitutional Service* with the court office at least 10 days before the hearing date.

Sample 1

File No. SC Your file number

THE KING'S BENCH  
Winnipeg Centre

BETWEEN

Claimant's name(s)

Claimant,

-and-

Defendant's name(s)

Defendant.

**AFFIDAVIT OF ATTEMPTED SERVICE**

I, (Your Name), of the (City/Town) of (Winnipeg) in the province of Manitoba, MAKE OATH AND SAY:

1. That I am a (your occupation), and as such have personal knowledge of the matters hereinafter deposed to by me.
2. That I do verily believe that the (claimant/defendant) resides at (full address).
3. That on \_\_\_\_\_, 20\_\_\_\_, I mailed a copy of the (name of document) by registered mail, to (full address) and it was marked (Refused, Moved, Unknown). Attached to my Affidavit and marked as Exhibit "A" is the envelope.
4. That on \_\_\_\_\_, 20\_\_\_\_, at (time, ex. 2:00 p.m.) I personally attended at the residence of the (claimant/defendant) located at (full address). (Provide details on what you observed at the address).
5. That on \_\_\_\_\_, 20\_\_\_\_, at (time, ex. 10:30 a.m.) I personally attended at the residence of the (claimant/defendant) located at (full address). (Provide details on what you observed at the address).
6. That on \_\_\_\_\_, 20\_\_\_\_, at (time, ex. 4:15 p.m.) I personally attended at the residence of the (claimant/defendant) located at (full address). (Provide details on what you observed at the address).
7. I make this affidavit in support of my request to obtain an order of substitutional service.

SWORN BEFORE me at the \_\_\_\_\_ )  
of \_\_\_\_\_, in the Province )  
of Manitoba this \_\_\_\_\_ day of )  
\_\_\_\_\_, 20\_\_\_\_. )

\_\_\_\_\_  
Deputy Registrar, King's Bench  
(or) Commissioner of Oaths

\_\_\_\_\_  
**(Your Signature here must be witnessed  
by a Deputy Registrar or a Commissioner of  
Oaths**

**NOTE:**

**Above paragraphs 2 to 6 are for illustration purposes only.** Your own information must be provided showing each attempt you have made to serve the other party. You must have 1 attempt by registered mail and it is suggested that you have at least 2 attempts by personal service.

Also, indicate:

- steps you have taken to ensure you have the party's proper address
- attempts you have made to locate the party
- how you intend to serve the party substitutionally

**Sample 2**

File No. SC Your file number

**THE KING'S BENCH  
Winnipeg Centre**

BETWEEN

**Claimant's name(s)**

Claimant,

-and-

**Defendant's name(s)**

Defendant.

**ORDER FOR SUBSTITUTIONAL SERVICE**

Upon application of the (**claimant/defendant**) in this matter and on having read the affidavit of (**claimant/defendant's name**), (**sworn/affirmed**) (**date**), filed: *(this paragraph is used when seeking an Order for Substitutional Service prior to a Small Claim hearing).*

**OR**

Upon application of the (**claimant/defendant**) in this matter and on having given evidence under oath before the Court Officer on (**date of last appearance**). *(this paragraph is used when an Order for Substitutional Service has been granted by a Court Officer at a Small Claim hearing)*

It is ordered that the (**claimant/defendant**) (**state name if more than one**) in this matter be served with the (**name of document(s)**), and Order Extending Time (**state date issued**) in the following manner:

1. By posting a copy of the (**name of document(s)**), and Order Extending Time (**state date issued**), bringing this matter on for hearing, and a copy of this Order for Substitutional Service on the front and back doors of the residence of the (**claimant/defendant**) (**claimant/defendant's name**) located at (**full address**).
2. By sending a copy of the (**name of document(s)**), and Order Extending Time (**state date issued**) bringing this matter on for hearing, and a copy of this Order to the (**claimant/defendant**) (**claimant/defendant's name**) by ordinary mail to (**full residence**).
3. By sending as attachments a copy of the (**name of document(s)**) and Order Extending Time (**state date issued**) bringing this matter on for hearing, and a copy of this Order to the (**claimant/defendant**) (**claimant/defendant's name**) by email at (**state email address**).
4. By placing an advertisement under "Legal Notices" in one edition of (**state name of local newspaper**).
5. Service in this manner is effective on the fifth day after the compliance of this Order.

DATE: \_\_\_\_\_ (**date of filing**) \_\_\_\_\_ (**do not sign**) \_\_\_\_\_  
Deputy Registrar

**NOTE:**

**Above paragraphs 1 and 3 are suggestions only.**

- You must indicate how you will be serving the other party substitutionally. The method you are proposing should be one that will likely bring the document to the other party's attention. The deputy registrar will sign the Order if they are satisfied you have made sufficient attempts to serve and locate the other party, as indicated in your affidavit of attempted service.
- The Order for Substitutional Service must be signed by a court official and filed with the court before you proceed with substitutional service steps.

**Sample 3**

File No. SC Your file number

**THE KING'S BENCH  
Winnipeg Centre**

BETWEEN

Claimant's name(s)

Claimant,

-and-

Defendant's name(s)

Defendant.

**AFFIDAVIT OF SERVICE BY SUBSTITUTIONAL SERVICE**

I, (claimant/defendant's name), of the (City) of (Winnipeg), in the Province of Manitoba, (Occupation), MAKE OATH AND SAY:

1. On \_\_\_\_\_, 20\_\_, I personally attended at the residence of the (claimant/defendant) (claimant/defendant's name) located at (full address) and did affix to the front and back doors a copy of the (name of document), Order Extending Time issued (state date issued) bringing this matter on for hearing, and a copy of the Order for Substitutional Service.
2. On \_\_\_\_\_, 20\_\_, I personally mailed to the (claimant/defendant) (claimant/defendant's name) by ordinary mail, a package containing the (name of document), Order Extending Time (state date issued) bringing this matter on for hearing, and a copy of the Order for Substitutional Service to (claimant/defendant's full address).
3. On \_\_\_\_\_, 20\_\_, I personally sent to the (claimant/defendant) (claimant/defendant's name) by email, an attachment containing the (name of document), Order Extending Time (state date issued) bringing this matter on for hearing, and a copy of the Order for Substitutional Service to (claimant/defendant's email address).
4. By placing an advertisement under "Legal Notices" in one edition of (name of local newspaper). Attached to my affidavit and marked as Exhibit "A" is a copy of the advertisement from the newspaper.

SWORN BEFORE me at the \_\_\_\_\_ )  
of \_\_\_\_\_, in the Province )  
of Manitoba this \_\_\_\_\_ day of )  
\_\_\_\_\_, 20\_\_\_\_. )

\_\_\_\_\_  
Deputy Registrar, King's Bench  
(or) Commissioner of Oaths

\_\_\_\_\_  
**(Your Signature here must be witnessed  
by a Deputy Registrar or a Commissioner of  
Oaths**

**NOTE:**

- You should file your Affidavit of Service by Substitutional Service with the court office at least 10 days before your hearing date.
- A copy of the advertisement from the newspaper must be attached and marked as Exhibit "A" to your Affidavit of Service by Substitutional Service.
- All documents previously filed need to be served with the Order for Substitutional Service.

**Sample 4**

**PRECEDENT ADVERTISEMENT FOR SUBSTITUTIONAL SERVICE**

TO: **Justin Jones**

TAKE NOTICE that a Small Claim, File Number **SC22-01-99999** has been filed against you by **Paula Singh** for **\$2,500.00** involving **a loan of money on January 10, 2022**. The hearing of the claim will take place by teleconference on **September 12, 2022** at **9:00 a.m.** The toll-free dial-in number is **1-800-123-4567** and the Conference ID is **1234567**. If you do not file a Defence within 20 days of this notice, a Certificate of Decision may be issued against you. Enquiries may be made to: Small Claims, Main Floor, 408 York Avenue, Winnipeg MB, R3C 0P9, phone 204-945-3138.

Thank you

**NOTE:**

The above sample has been provided as an example of the wording for an advertisement to appear under "Legal Notices" in one edition of a local newspaper. Prepared advertisement copy should be double-spaced as shown. A copy of the advertisement from the newspaper must be attached and marked as Exhibit "A" to your Affidavit of Service by Substitutional Service.

The **bold and underlined** portions in the above samples should reflect the information relevant to your claim.