



## Small Claims

- » If you have a dispute (for example, with a service provider, tradesperson, merchant or small business) that you are unable to resolve, a quick, economical solution is available in the form of a legal action in the [Small Claims<sup>1</sup>](#) Division of the Court of Québec, commonly referred to as “small claims court”.



The Small Claims Division hears cases involving sums of money, or the cancellation or termination of a contract, when the amount in dispute does not exceed \$7,000. People who appear before the Small Claims Division represent themselves, without a lawyer.

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## » Before suing: formal notice

Before you submit your case to the Small Claims Division, you should give the person you want to sue [formal notice](#).

Formal notice is generally given in the form of a letter, sent to the person you want to sue (the defendant) using a method that provides proof of receipt (for example, certified mail). The formal notice must contain

- the date, and the recipient's name and address;
- the heading "without prejudice", which protects you in terms of the statements you make in the letter;
- the words "formal notice" in the body of the letter, to ensure that the recipient is aware of its importance;
- a clear explanation of your demand, and the reasons for it;
- a time limit for the defendant to respond to your demand; in general, a period of 10 days is considered reasonable;
- your signature and contact information.

It is important to keep a copy of the demand letter as well as the post office delivery receipt.

In some cases, you are legally required to give formal notice. For more information, contact the clerk of the [Small Claims Division](#).

### *Example of a demand letter*

Place and date

**WITHOUT PREJUDICE**

Name and address of the person sued

*Sir/Madam:*

*I am writing to inform you that I am claiming the sum of \$XX from you for the following reasons:*

...

*This letter constitutes formal notice to pay me the sum of \$XX within ten days. Otherwise, I may take legal action against you immediately and without further notice.*

*Please act accordingly.*

Signature

Your address and telephone number

## » Conditions for filing a claim

### *Who can sue?*

Any natural person can bring an action in the Small Claims Division (becoming the plaintiff in the suit). In addition, the tutor, curator, mandatary (if a [mandate has been given](#) in anticipation of the person's incapacity), or administrator of the property of another person may file a claim on that person's behalf.

Individuals who are unable to appear themselves in small claims court, either to file a statement of claim or take part in a hearing, can give their spouse, relative, relative by marriage or friend a [mandate](#) to represent them, provided that person acts free of charge. The mandate must be recorded in a written document signed by the individual that states the reason why the individual is unable to appear himself or herself.

A legal person for example, a corporation, co-owners' syndicate, non-profit organization, municipality, company or business corporation can bring an action in the Small Claims Division if it employed at most five people during the twelve months prior to the claim. It must be represented before the Small Claims Division by an officer or other individual working solely for it and bound to it by an employment contract.

### *Who can be sued?*

Any individual, association, partnership or legal person, regardless of the number of employees, may be sued in the Small Claims Division and become the defendant in the suit.

Individuals must represent themselves in the Small Claims Division, without a lawyer, but they can be represented by their spouse, a relative, a relative by marriage or a friend, provided that person is acting free of charge. The [mandate](#) to represent the individual must be recorded in a written document, signed by the individual, that states the reason why the individual is unable represent himself or herself.

An association, partnership or legal person can only be represented by an officer or other person working solely for it and bound to it by an employment contract.

### *What is the maximum amount that can be claimed?*

The maximum amount that can be claimed in the Small Claims Division is \$7,000, not counting interest. The interest that can be claimed is the interest stipulated in the contract binding the parties. If no interest rate is indicated, interest at the legal rate of 5% per year and the additional indemnity provided for in [article 1619](#) of the Civil Code of Québec can be claimed.

The interest is generally calculated from the date on which the formal notice is received or, exceptionally, from the date that may be considered appropriate by the court.

The plaintiff may reduce the amount that is owed so that the claim can be heard by the Small Claims Division. However, the fact that the amount has been reduced must be recorded in the statement of claim.

A debt cannot be divided, directly or indirectly, into several debts of \$7,000 or less. It is, however, possible to claim a debt resulting from a contract under which payment is made in periodic instalments or obligations are performed at successive intervals, such as a lease, employment contract, disability insurance contract or any similar contract, as long as the amount claimed does not exceed \$7,000.

### *What type of claim can be made?*

Actions in the Small Claims Division are limited to the recovery of an amount not

exceeding \$7,000, or the cancellation or termination of a contract with a value of no more than \$7,000. A “contract” is any oral or written agreement between the parties.

The Small Claims Division does not hear claims in connection with a lease for a dwelling or property referred to in [article 1892<sup>2</sup>](#) of the Civil Code of Québec. These matters come under the jurisdiction of the Régie du logement.

The Small Claims Division cannot hear claims concerning child or spousal support or class action suits, lawsuits for slander, or suits that are instituted by a person, partnership or association that has purchased another person’s debt.

#### *When must the statement of claim be filed?*

Statement of claims should be filed as soon as possible after the incident giving rise to the action occurs. Some must be filed within a specific period of time, such as actions concerning latent defects, and some claims must meet certain conditions, such as those instituted against a municipality. It may be advisable to obtain more information on those time limits or conditions from a lawyer or from the clerk of the Small Claims Division.



#### *Where must the statement of claim be filed?*

A statement of claim may be filed with the Small Claims Division of the Court of Québec in one of the following [judicial districts](#):

- the judicial district of the domicile or last known residence of the defendant;
- the judicial district of the domicile of the insured party who is making a claim against an insurer;
- the judicial district in which the incident giving rise to the action occurred;
- the judicial district in which the contract was concluded.

If the defendant is not domiciled in Québec, the action may also be brought before the court in the judicial district in which the defendant’s residence or business is located.

Plaintiffs who live more than 80 km from the domicile of the defendant may file their statement of claim in the court for the judicial district in which they are domiciled or, if they are not domiciled in Québec, where they have their residence or business. The clerk will transmit the statement of claim to the clerk of the court chosen by the plaintiff.

#### *Preparing the statement of claim*

Plaintiffs can prepare their own statement of claim, using the form [Action filed with the Small Claims Division](#). This must be filed, along with the supporting documents, at the clerk’s office of the Small Claims Division.

If you require assistance, contact the clerk of the Small Claims Division, who is the only officer of the court authorized to help you prepare your statement of claim. To obtain assistance, you must make an appointment with the clerk; you should bring with you to the appointment all the documents that have to be submitted as evidence to the court.

The clerk for the Small Claims Division cannot accept the filing of an action unless the court fees have been paid. The clerk will tell you the amount of those fees. However, individuals who can show that they are receiving benefits as part of a program under the Act respecting income support, employment assistance and social solidarity (R.S. Q., c. S-32.001) do not have to pay the fees.

#### *What happens if the clerk rejects your statement of claim?*

The clerk will reject a statement of claim if it does not meet the criteria for claims before the Small Claims Division. However, you may ask to have that decision reviewed within fifteen days of receiving it by completing the appropriate section in the form provided for a request to review a clerk's decision.

*Can a statement of claim be amended after it has been filed?*

If you wish to change the amount of your claim or involve another party in the suit, you can amend your statement of claim by filing a new one with the office of the Small Claims Division, specifying that you wish to amend your initial statement of claim. The clerk will send a copy to the defendant who will have ten days to oppose it.

*What happens if one of the parties dies or is declared unfit to manage his or her affairs?*

If one of the parties dies or is declared unfit to manage his or her affairs, the party may be represented by another person. A continuance of suit must be requested. You must contact the clerk of the Small Claims Division, who will help the party making the request to complete the forms concerning the formal notice and the continuance of suit before the Small Claims Division<sup>3</sup>.

*What is mediation?*

Mediation is a service offered by the Small Claims Division through which the parties can settle their suit by reaching an agreement. Mediation costs the parties nothing. The mediation session, which lasts about an hour, takes place in private and without any formalities. The parties are summoned to appear before the mediator, either a lawyer or a notary, at a time that is convenient to them.

When a claim is filed, the clerk will suggest that the party instituting the suit (the plaintiff) use the mediation service offered by the Small Claims Division. If the plaintiff agrees, the party that is being sued (the defendant) will be informed and will either accept or reject mediation.

## » **What to do if you are sued?**

The party being sued (the defendant), after being informed of the action may, within 20 calendar days of receiving a copy of the statement of claim,

- pay the amount claimed,
- propose an out-of-court settlement, or
- contest the action.

*Paying the amount claimed*

The payment can be made either directly to the plaintiff or to the clerk of the Small Claims Division. A full payment will include payment of the amount claimed as well as the plaintiff's court costs. This option closes the court file.

*Proposing an out-of-court settlement*

It is possible to reach an out-of-court settlement with the plaintiff. In the case of a monetary settlement, the clerk if requested to do so will confirm the settlement, which is then equivalent to a judgment.<sup>4</sup> In the case of another type of arrangement, such as work to be done or goods to be provided or exchanged, details must be provided. If this arrangement is not respected, either party may request a court hearing.

*Contesting the action*

To contest an action, you must complete the Contestation form<sup>4</sup>, and list and attach the documents that will serve as evidence before the court.

The contestation will not be accepted unless the court fees have been paid.

When contesting an action, the defendant may:

- Ask for the case to be heard in another judicial district, namely:
  - the district of the defendant's domicile or last known residence;
  - the district of the domicile of the insured party making a claim against an insurer;
  - the district in which the incident giving rise to the action occurred;
  - the district in which the contract was concluded;
  - the district in which the defendant's residence or business is located in Québec, if the defendant is not domiciled in Québec.

(When the judge grants such a request, the file is forwarded to the court office for the judicial district in which the case will be heard. The clerk then summons the parties to the hearing.)

- Implead (involve) another person, a third party, to resolve the dispute.

(If another person, a third party, can share responsibility with the defendant or assume full responsibility for the dispute, the defendant may ask to have that person be a party to the suit.)

- Make a counter-claim against the plaintiff.

(A defendant who is of the opinion that the claim is not justified and, in addition, has a claim to make against the plaintiff, may make a request to that effect. This new claim (called a counter-claim) must be linked or related to the principal claim and be eligible to be heard by the Small Claims Division.)

- Use the mediation service.

If the defendant does not appear, a judgment may be rendered by default, with or without a hearing.



## » The hearing

### *How to prepare for a hearing?*

After receiving the notice indicating the place, date and time of the hearing, which is sent to both parties, you must prepare yourself thoroughly.

If this has not been done already, each party must file the documents, statements or reports in support of the claim or the contestation at the court office, at least fifteen days before the date set for the hearing. Each party may obtain a copy of the documents filed by the other party by submitting a request to that effect to the clerk.

If, to prove its case, a party needs one or more individuals to testify in its favour, but is afraid that they will not attend the hearing, it must notify the clerk and provide the names and addresses of the individuals. The clerk will then ensure that they are summoned to appear.

Individuals who are called to testify before the Small Claims Division generally do so

without receiving any allowance, unless the court decides otherwise.

A party may give the clerk a written statement in place of a person's testimony, using the [Statement in lieu of testimony](#) form. The statement must be submitted at least fifteen days before the date set for the hearing. The statement is equivalent to oral testimony. The opposing party will be informed by the clerk and has access to the statement, but may also ask to have the individual, known as the "deponent", attend the hearing nonetheless. However, the party that asks to have the deponent summoned must assume the costs of doing so if the judge is of the opinion that the deponent was compelled to attend court unnecessarily.

*What happens on the day of the hearing?*

On the day of the hearing, each party must make sure that its witnesses are present. There are two categories of witnesses: ordinary witnesses and expert witnesses.

Ordinary witnesses come to court to testify to what they have seen or heard. Expert witnesses have a high degree of knowledge in a specific field, such as engineers, architects, mechanics or certified appraisers.

The court clerk calls the case and notes the presence or absence of the parties. The judge gives a brief explanation of the rules of evidence and procedure. Each party then presents its case and calls its witnesses. The judge examines the witnesses and provides fair and impartial assistance to both parties, and may also try to bring the parties to an agreement.

## » The judgment and revocation of the judgment

*The judgment*

After hearing all the parties, the judge may find wholly or partially in favour of the plaintiff, or may dismiss the action. The judge will also decide on any counter-claim by the defendant against the plaintiff.

The judge may render judgment at the hearing, in the presence of all the parties. This oral judgment is known in law as "a judgment delivered from the bench". The judge may also render judgment at a later date, and this is called "taking the case under advisement".

The parties receive a copy of the judgment rendered by the judge. The judgment settles the matter of costs, which may include the amounts paid to file or contest the claim as well as any other disbursements specified by the judge. Generally, the losing party pays the costs.

The law requires that a judgment be rendered at the latest four months after the last day of the hearing. A judgment rendered in the Small Claims Division is final and cannot be appealed.

*Revocation of a judgment*

If a judgment is rendered by default, in other words, in the absence of one of the parties, the party that did not attend the hearing may ask to have the judgment revoked if, for a valid reason, that party was prevented from contesting the action within the required period or time, or was prevented from appearing at the hearing.

A revocation of a judgment is not an appeal. For this reason, a judgment cannot be revoked on the grounds that the judge made an error.

The request for revocation must be made in writing using the [Application for Revocation of Judgment](#) form and must be supported by a sworn statement. It must be filed in the

office the Small Claims Division within fifteen days after the losing party became aware of the judgment. If the application for revocation is granted, enforcement proceedings (seizure) will be suspended. The parties will be notified by the clerk who will summon them for a new hearing at a later date.



## » Enforcing the judgment

### *Voluntary execution*

Following a judgment rendered in the Small Claims Division, the party that is ordered to pay money (the debtor) must pay the party to whom the money is owed (the creditor) the amounts indicated in the notice of judgment within thirty days of the date of the judgment. The time limit is ten days if the defendant did not contest the action.

The payment must be sent directly to the creditor.

### *Enforcement*

If the payment is not made within the required amount of time, the creditor may apply for the following enforcement proceedings:

- the issue of a writ of summons for cross-examination in order to question the debtor about the debtor's property and sources of income;
- the issue of a writ of seizure of movable property to seize the debtor's movable property, such as a car;
- the issue of a writ of seizure by garnishment to seize property belonging to the debtor that may be in the possession of a third party, such as salary and bank accounts;
- the issue of a writ of seizure of immovable property to seize the immovable property of the debtor, other than his or her principal residence.


The creditor may take steps to have the judgment enforced or may have a lawyer or bailiff do it. A creditor who is a natural person may also request assistance from the clerk of the Small Claims Division.

### *Opposition to enforcement proceedings*

The party that wins the case, the judgment creditor, cannot seize all of the property belonging to the debtor. The law protects certain types of property from seizure.

It is possible to contest an enforcement proceeding ([seizure](#)) by completing the form [Opposition to seizure in execution](#). When this form is filed, the clerk immediately notifies the parties and the bailiff, if any. The enforcement procedures will be suspended. The clerk will then summon the parties to a court hearing on a set date.

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1. The provisions concerning the Small Claims Division are found in articles 953 to 998 of the [Code of Civil Procedure](#) , R.S.Q., c. C-25.

2. "The lease of a room, of a mobile home placed on a chassis, with or without a permanent foundation, or of land intended for the emplacement of a mobile home is deemed to be the lease of a dwelling. The provisions of this section also govern leases relating to the services, accessories and dependencies attached to a dwelling, a room, a mobile home or land.

The provisions of this section do not apply to

- (1) the lease of a dwelling leased as a vacation resort;
- (2) the lease of a dwelling in which over one-third of the total floor area is used for purposes other than residential purposes;
- (3) the lease of a room situated in a hotel establishment;
- (4) the lease of a room situated in the principal residence of the lessor, if not more than two rooms are rented or offered for rent and if the room has neither a separate entrance from the outside nor sanitary facilities separate from those used by the lessor;



(5) the lease of a room situated in a health or social services institution, except pursuant to article 1974.”

3. Form available only in courthouses.

4. This gives it the same force as a court judgment

### Note regarding forms

All of the forms used for the Small Claims Division of the Court of Québec are available at the office of the clerk.

Most\* of the forms are accessible through the "[Forms](#)" section on this website.

For additional information, please contact the clerk of the [court](#) where your case was heard.

\*Some forms to be used in special circumstances and where specific rules apply are available only in courthouses.

### » For more information

Video on Small Claims Division:

- [Preparing a small claims application or defence \(In French\)](#)

The jurisdiction of each court in Québec:

- [The Court System](#)

The different types of seizures:

- [Seizure](#)

The addresses and telephone numbers of Québec courthouses:

- [Courthouses](#)

Which judicial district a municipality is located in:

- [Search for a judicial district](#)

Forms that relate to Small Claims:

- [Forms used by the Small Claims Division](#)

The provisions concerning the Small Claims Division

- [Code of Civil Procedure](#) , R.S.Q., c. C-25 (articles 953 to 998)

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**The content of this document is strictly informative and has no legal value.**

If you find some of the information difficult to understand, do not hesitate to [contact us](#).

**Please note, however, that we cannot interpret the information to apply it to a specific situation.**



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Québec 

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**Please note:** The personnel at the Service de renseignements of the Ministère de la Justice can help you understand the general rules for applying Québec legislation. They cannot, however, interpret these rules to respond to a specific case or situation.

When contacting us by mail or e-mail, please indicate your address and telephone number so that we can contact you when necessary.

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Québec 

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