



Small claims

- » If you cannot resolve a dispute with a service provider, merchant, or skilled tradesman, a quick, economical solution is available in the form of legal action at the Small Claims Division of the Court of Québec.



The Small Claims Division hears disputes involving sums of money as well as other cases undertaken to cancel or terminate a contract, when the object of the contract and the sum claimed do not exceed \$7,000 each. This is a division of the Court of Québec where people act on their own behalf, without a [lawyer](#).¹

- [Before suing: the formal notice](#)
- [Conditions for filing a claim](#)
 - [Who can sue?](#)
 - [Who can be sued?](#)
 - [what is the maximum amount that can be claimed?](#)
 - [What type of claim can be made?](#)
 - [When must the claim be filed?](#)
 - [Where must the claim be filed?](#)
 - [Writing the claim](#)
 - [What happens if the Court Clerk refuses your claim?](#)
 - [What happens when the Court Clerk accepts your claim?](#)
 - [How can you change your claim after you have filed it?](#)
 - [What is a continuance of the proceedings?](#)
 - [What is mediation?](#)
- [What to do if you are sued?](#)
 - [Paying the amount claimed](#)
 - [Proposing an amicable settlement](#)
 - [Contesting the claim](#)
- [The hearing](#)
 - [How can you prepare for the hearing?](#)
 - [What happens on the day of the hearing?](#)
- [The judgement and revocation of the judgement](#)
 - [The judgement](#)
 - [Revocation of a judgment](#)
- [Enforcing the judgment](#)
 - [Voluntary execution](#)
 - [Enforcement of the judgment](#)
 - [Opposition to the enforcement procedures](#)

» Before suing: the formal notice

It is recommended that, before you submit your case to the Small Claims Division, you send a formal notice to the individual you want to sue. In certain cases, it is even obligatory to do so. For information about such cases, contact the clerk of the Small Claims Division.

A formal notice is a letter that outlines the dispute and provides details about the sum claimed. You send it to the person you want to sue (defendant) by registered or certified mail. You must specify a time frame for receiving a response. Normally, a period of ten (10) days is considered reasonable. You must keep a copy of the formal notice as well as the post office delivery receipt.

Example of a formal notice

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:

...

I hereby call upon you 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?

An individual can institute an action or, in other words, make a claim before the Small Claims court. The guardian, curator, or legal representative assigned to fulfill a mandate concerning a case of incompetence, or someone who administers the property of another can also institute a suite for the individual represented.

An individual who cannot act on his own behalf before the Small Claims court, either to file a claim or take part in a hearing, can appoint his spouse, a relative, an in-law or a friend to represent him. This representation must be provided free of charge and be backed by a written document, signed by the individual assigning the mandate, stating the reasons for which he cannot act on his own behalf.

A legal person, company or association can institute a suit before the Small Claims

court if it employed at most five (5) people during the course of the twelve (12) months prior to the claim. It must be represented before the Small Claims court by a director or other individual working solely for it and bound to it by an employment agreement.

Businesses, unions, co-owners, non-profit organizations, municipalities, corporations and companies are examples of legal persons.

Who can be sued?

The defendant is the person against whom a suit is instituted. An individual, association, company or legal person can be sued in the Small Claims court, regardless of the number of employees they have.

An individual acts on his own behalf in the Small Claims court. He can also ask his spouse, a relative, an in-law or a friend to represent him. This representation must be provided free of charge and be backed by a written document, signed by the individual giving the mandate, stating the reasons for which he cannot act on his own behalf.

An individual, association, company or legal person can only be represented by a director or another person, working solely for it and bound to it by an employment agreement.

what is the maximum amount that can be claimed?

The maximum amount that can be claimed at the Small Claims Division is \$7,000, not including interest. The interest that can be claimed is that provided for in the contract signed by the parties. If no interest rate is indicated, interest at the legal rate of 5% per year and the additional payment provided by the [law](#)² can be claimed.

The interest is calculated as of the date provided in the contract or, if no date is indicated, as of the date on which either the formal notice is received or the claim is filed.

In his claim, the claimant may agree to reduce the amount that is owed to him so that his claim can be heard by the Small Claims Division. This reduction must, however, be mentioned in the 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 was made in periodic installments or for which the obligations were fulfilled in a successive manner, as is the case for a lease, an employment agreement, a disability insurance agreement, or any similar contract, as long as the amount claimed does not exceed \$7,000.

What type of claim can be made?

The claim covers the claim for a sum of at most \$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 concerning leases for apartments or property covered by Article 1892 of the Civil Code of Québec. These matters come under the jurisdiction of the Régie du logement.

Moreover, the Small Claims Division cannot hear claims concerning child support or class actions. The same applies to claims concerning lawsuits for defamation or suits that are submitted by an individual, company or association that purchases a debt from another.

When must the claim be filed?

Most claims must be filed within a period of three (3) years. However, some must be filed within a shorter period of time. This applies to claims concerning hidden defects or claims for which specific terms must be respected, such as those instituted against a municipality.

It is always preferable to submit a claim as soon as possible after the event leading to the dispute occurs.



» *Where must the claim be filed?*

A claim made to the Small Claims Division can be filed:

- before the court for the judicial district where the domicile or last known residence of the defendant is located;
- before the court for the judicial district where the domicile of the insured party who is making a claim against his insurer is located;
- before the court for the judicial district in which the event in question occurred;
- before the court in the judicial district where the contract was concluded.

If the sued party is not domiciled in Québec, the claim may also be submitted before the court for the judicial district in Québec where his residence or establishment is located.

If the claimant lives more than 80 km from the domicile of the defendant, he may submit his claim to the court for the judicial district where he is domiciled or, if he has no domicile, where he has his residence or establishment. The clerk will transmit the claim to the clerk of the court selected by the claimant, in keeping with the indications provided above.

Writing the claim

The clerk for the Small Claims Division is the only justice officer authorized to help you write up your claim. To obtain his assistance, simply make an appointment with him. For this appointment, you should bring all of the documents that have to be submitted as evidence before the court.

The claimant can also write up the claim on his own, using the “*claim*” form. The claim form and the documents should be submitted to the clerk for the Small Claims Division.

The clerk for the Small Claims Division will inform you about the charge for submitting a claim to the Small Claims Division.

The clerk cannot accept a claim unless the legal fees have been paid. However, an individual who indicates that he is receiving social assistance payments under the Act respecting income support does not have to pay these fees.

All of the forms used by the Small Claims division of the Québec Court will be available on our site in January 2003.

What happens if the Court Clerk refuses your claim?

The Clerk will refuse your claim if, in his view, it does not meet the criteria for actions before the Small Claims court. However, you may ask to have that decision reviewed within fifteen (15) days of receiving it by completing the appropriate section in the

“Request for a revision of the Clerk’s decision” form.

What happens when the Court Clerk accepts your claim?

If the claim is a liquid claim for money that is due, the Clerk will give it to a bailiff who will in turn deliver it to the defendant in person or to a director in the event that the defendant is a corporation, company or association.

The bailiff must then inform the defendant of the options available to him and the consequences in the event that he fails to take action. Depending on the decision of the defendant, the bailiff accepts the payment of the claim, transmits the settlement offer or transmits a notice of the defendant’s intention to contest the claim or exercise recourse to mediation.

How can you change your claim after you have filed it?

If you want to change the amount of your claim or involve another party in the suit, you can use the amendment procedure to do so. Simply submit another claim to the Clerk of the Small Claims Division, specifying that you wish to amend your initial claim. The Clerk will send a copy to the defendant who will have ten (10) days to oppose it.

What is a continuance of the proceedings?

If one of the parties dies or is declared unfit to manage his affairs, another individual may represent him. As a result, a continuance of the proceedings must be requested. In this case, you must contact the Clerk for the Small Claims Division, who will help you complete the *“Notice of Continuance”* or *“Appearance for Continuance”* form.

What is mediation?

When a claim is filed, the Clerk will suggest that the party instituting the suit, the claimant, use the mediation service offered by the Small Claims Division. If the claimant agrees, the party that is being sued, the defendant will be informed and will, in his response, indicate whether he accepts the mediation or not.

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.

 [Top](#)

» **What to do if you are sued?**

When the party being sued, the defendant, is informed about the suit, he may:

- pay the amount claimed;
- propose an amicable settlement;
- contest the claim.

Paying the amount claimed

The payment can be made either directly to the claimant or to the Clerk of the Small Claims Division. A full payment will include payment of the amount claimed as well as the legal expenses assumed by the claimant. This option closes the legal file.

Proposing an amicable settlement

It is possible to reach an amicable settlement with the claimant. In the case of a monetary settlement, the Clerk will confirm the settlement, which is then equivalent to a judgment. 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 claim

To contest a claim, you must complete the “*Contestation*” form provided for this purpose, and list and enclose the documents that will serve as evidence before the court.

Your contestation will not be accepted unless the legal fees have been paid.

When contesting a claim, the defendant may choose one of the following options:

- Ask for the claim to be heard in another judicial district, namely:
 - the district where his domicile or last known residence is located;
 - the district where the domicile of the insured party opposing an insurer is located;
 - the district where the event occurred;
 - the district where the contract was concluded;
 - the district where his residence of establishment is located in Québec if he is not domiciled there.

When the judge grants such a request, the file is forwarded to the Clerk for the judicial district where the case will be heard. Then the clerk will summon the parties for a hearing.

- Call on another person, a third party, to resolve the dispute.

If another individual, a third party, can share responsibility with the defendant or assume full responsibility for the dispute, the defendant may ask to have that person included in the claim.

- Have his own claim against the claimant heard.

When the defendant is of the opinion that the claim is not justified and, moreover, he wants to have his own claim against the claimant heard, he may make a request to that effect. This new claim must be linked to the principal claim and be eligible to be heard by the Small Claims Division.

- Use the mediation service mentioned above.

If the party being sued does not appear, a judgment may be rendered by default, with or without hearing, as the case may be.

» The hearing

How can you prepare for the hearing?

After receiving the notice of hearing indicating the place, date and time of the hearing, you must prepare yourself thoroughly.

If this has not been done already, each party must give the Clerk the **documents, statements or reports** used to prove the grounds for the claim or the contestation. They must be given to the Clerk at least fifteen (15) days before the date set for the hearing. It should be noted that each party may obtain a copy of the documents submitted by the other party by submitting a request to that effect to the clerk.

If, when establishing his evidence, one party requires one or more individuals to come to the hearing to testify on his behalf and if that party fears that the witnesses will not come to the hearing, he must inform the Clerk and give him the names and addresses of the individuals in question. The Clerk will see that they are summoned.

The individuals who are called to testify before the Small Claims court generally do so without receiving any allowance, unless the court decides otherwise.

One party may give the clerk a **written statement in place of the testimony** of an individual. In this case, he can use the "*Declaration made in place of testimony*" form. This statement must be submitted at least fifteen (15) days before the date set for the hearing. This statement is equivalent to testimony. The opposing party will be informed by the Clerk and may read this statement. Moreover, that party may still ask to have the declarant attend the hearing. However, the party that asks to have a declarant summoned to the hearing assumes the costs of doing so if the judge is of the opinion that the declarant was summoned and made the trip for no good reason.

What happens on the day of the hearing?

On the day of the hearing, each party must make sure that his witnesses are present. There are two (2) categories of witnesses. The ordinary witness is a witness who comes to court to testify to what he has seen or heard, whereas the expert witness is one that has a certain amount of expertise in a specific field. This is the case, for example, of an engineer, architect, mechanic or accredited appraiser.

The Court Clerk calls the case and notes the presence or absence of the parties. The judge will provide a brief explanation of the rules of testimony and procedure. Then, each party will explain his point of view and have his witnesses heard. The judge will cross-examine the witnesses and provide fair and impartial assistance to both parties. He may try to reconcile the parties.



» The judgement and revocation of the judgement

The judgement

After hearing all of the parties, the judge may either agree with the claimant in whole or in part, as the case may be, or he may reject the claim. Moreover, in the same case, he will also render a judgment as to a possible suit on the part of the defendant against the claimant (counterclaim). The judge may render his judgment during the hearing, in the presence of all of the parties. In this case, he will give an oral judgment. In law, this is called “delivering the judgment from the bench”.

The judge may also render his judgment later. In this case, he takes the case “under advisement”.

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

In keeping with the law, any judgment must be rendered at the latest four (4) months after the last day of the hearing. A judgment rendered in the Small Claims court is final and cannot be appealed.

Revocation of a judgment

If a judgment is given in the absence of one of the parties, namely a default judgment, the person who was not able to be heard may ask to have the judgment overturned if, for a valid reason, he was prevented from contesting the claim within the required period or time or if he was prevented from appearing at the hearing.

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

The request for revocation must be made in writing using the “*Request for revocation of judgment*” form and must be supported by a sworn statement. It must be submitted to the Clerk of the Small Claims Division within fifteen (15) days after the losing party became aware of the judgment. If the request for revocation is accepted, the enforcement procedure (seizure procedure) will be suspended. The parties will be notified by the Clerk, who will summon them at a later date for a new hearing.



» Enforcing the judgment

Voluntary execution

Following a judgment rendered in the Small Claims court, the party that is order to pay a sum, the debtor, must pay the party to whom the sum is owed, the creditor, the sums indicated in the judgment notice within thirty (30) days of the date of the judgment. This time frame is ten (10) days if the defendant did not contest the claim.

The payment must be sent directly to the creditor.

Enforcement of the judgment

If the payment is not made within the required amount of time, the creditor may have the judgment enforced as follows:

- issuing a writ of summons for cross-examination in order to question the debtor about his property and sources of income;
- issuing a writ of seizure to seize the debtor's property, such as a car;
- issuing 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 his salary or bank accounts;
- issuing a writ of seizure of immovable property to seize the immovable property of the debtor, other than his principal residence.

The creditor may take steps himself to have the judgment enforced or may have a lawyer or bailiff do it. If the creditor is a legal person, it may also exercise recourse to the services of the Clerk of the Small Claims Division.

Opposition to the enforcement procedures

The party that wins a case, the creditor of a judgment, cannot seize all of the property belonging to the debtor. In fact, certain types of property cannot be seized under law.

It is possible to contest an enforcement procedure ([seizure](#)) by completing the form entitled "*Notice to Clerk – Request concerning the enforcement of a judgment*". When this form is submitted, the Clerk will notify the parties and the bailiff, as the case may be, immediately. The enforcement procedures will be suspended. The Clerk will then summon the parties on the set date for a court hearing.

-
1. The provisions concerning the Small Claims Division are found in the Code of Civil Procedure, more specifically articles 953 to 998, L.R.Q., c. C-25.
 2. Civil Code of Québec, Art. 619.

For additional information, please contact the clerk of the court where your case was heard.

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

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

We hope this text has helped to answer your questions. However, if some aspects remain unclear, do not hesitate to contact [us](#).

Note: In this text, the masculine form is used to designate either sex.

See also

[Québec courthouses](#)

[Search](#) for a judicial district

[Seizure](#)



