

What Is Small Claims Court?

Small Claims Court Self-Help Guide



Information Resources – Whitehorse, Yukon

Yukon Government

Consumer Services

867-667-5111; toll free (in Yukon) 1-800-661-0408, ext. 5111
Email: consumer@gov.yk.ca
Web site: www.community.gov.yk.ca/consumer/index.html
Location: 307 Black Street

Corporate Affairs

867-667-5314; toll free (in Yukon) 1-800-661-0408, ext. 5314
Email: corporateaffairs@gov.yk.ca
Web site: www.community.gov.yk.ca/corp/index.html
Location: 307 Black Street

Employment Standards

867-667-5944; toll free (in Yukon) 1-800-661-0408, ext. 5944
Email: employmentstandards@gov.yk.ca
Web site: www.community.gov.yk.ca/es/index.html
Location: 307 Black Street

Small Claims Court Registry

867-667-5619; toll free (in Yukon) 1-800-661-0408, ext. 5619
Email: courtservices@gov.yk.ca
Web site: www.yukoncourts.ca/courts/smallclaims.html
Location: Ground Floor Law Courts, 2134 – 2nd Avenue

Non - Government

Law Line - Yukon Public Legal Education Association (YPLEA)

867-668-5297; toll free (in Yukon) 1-866-667-4305
Email: ypleayt@gmail.com
Web site: www.yplea.com
Location: Ground Floor Andrew A. Philipsen Law Centre, 2134–2nd Avenue

Law Society of Yukon (Lawyer Referral Service)

867-668-4231
Email: info@lawsocietyyukon.com
Web site: www.lawsocietyyukon.com
Location: Suite 202–302 Steele Street (T.C. Richards Building)
Lawyer Referral Service—half—hour consultation with a lawyer—\$30 incl. GST

Lawyers

To contact a lawyer's office, look in the phone directory under "Lawyers" in the Yellow Pages or under names of local law firms

IMPORTANT!

This guide has been produced by the Court Services Branch of the Yukon Department of Justice. It is intended to be used as a guide only and is not considered a comprehensive legal resource.

The information provided does not replace a lawyer's advice and cannot teach you everything you need to know. Even if you decide to proceed without a lawyer, you should consult a lawyer for interpretation of the law that applies to your case and for other legal advice.

The information provided in this guide is believed to be correct as of its date of publication.

What Is Small Claims Court?

What is the maximum amount that I can claim in Small Claims Court?

The limit for small claims is \$25,000.

If your claim is for more than \$25,000 and you do not think it is worth the cost or the trouble of going to the Supreme Court, you can reduce the total to \$25,000 to have it filed in Small Claims Court. If you choose to reduce your claim to meet the Small Claims limit, you must give up any part of your claim which is over \$25,000. You cannot divide a larger claim and sue more than once in Small Claims Court for different parts of the same debt.

What kind of claim may I file in Small Claims Court?

You may open a file in Small Claims Court to sue for: NSF cheques, unpaid accounts, unpaid bills for services you provided, unpaid loans, unpaid rent, costs due to motor vehicle accidents and property damage. You may also sue to recover goods taken or kept without permission. Claims for libel or slander, and disputes about land or wills and estates cannot be filed in Small Claims Court.

Can I use Small Claims Court when the cause of my claim began outside Yukon?

In most cases, the event that resulted in your claim must have taken place in Yukon. For example, if you pay for goods through the mail from another province or territory and don't receive them, you may have to sue in the courts in the other area.

How long do I have to sue in Small Claims Court?

The time limit for filing a claim depends on the type of claim. You must file a claim within six years of the date when you could have first made a claim for unpaid accounts, promissory notes, personal loans, NSF cheques, or damage to property. Claims for personal injury (such as from vehicle accidents), assault, breach of a lease, or failure to return property, must be made within two years of the event.

What else should I consider before I file a claim?

Besides the time and money limits, you should think about how likely you are to win. To win, your claim must have a sound legal basis (similar cases to yours must have been successful). You should also be able to show the court that you have evidence (such as copies of unpaid bills) to prove that you have a valid claim. The court will hear an oral claim, but if you have evidence, you will more likely be able to prove your case.

You should also consider whether you will be likely to collect on your claim even if you win. It will be up to you to enforce any court judgment in your favour. The court staff can't collect your money for you, although they can help you with the forms you need. In some cases you may have to pay more money to enforce your judgment. (See Guide #6, Judgments and How to Collect a Small Claim.) If you can't find the person who owes you money, if they aren't working, or if they do not have assets, you probably will not be able to collect from them.

You should also consider whether it is really worth it to you to collect on your debt. If you win your case, the court can order that you be paid for costs associated with filing your claim, but you may have to spend several hours learning what to do and going through the steps in the Small Claims process. You will not be reimbursed for the time you spend on your case, or for any wages you lose by going to court. Going to court can also be a stressful experience.

What should I do before I decide to sue?

Before you sue, you should consider sending the other party a letter by some means that will provide proof that you sent it, such as registered mail. The letter should clearly state what you are owed and that you demand payment by a specific date. The letter should also state that you will be filing a claim in Small Claims Court if you are not paid by that date. If you are willing to take part in a pre-trial conference where a Justice of the Peace or a Territorial Court Judge may mediate the dispute free of charge to help settle the matter, you should say so in your letter.

You can check with Consumer Services if you have a problem with refunds for goods or services you purchased, or for landlord-tenant matters. If you are owed money from an employer, you can call Employment Standards to see if your claim could be handled by their office. The Law Line can provide you with limited legal information. These services are free, while a half-hour consultation with a lawyer through the Lawyer Referral Service costs \$30 including GST.

SMALL CLAIMS COURT FEES

Filing a claim: Claims up to and including \$5,000 Claims over \$5,000 and not more than \$25,000	\$ 50.00 \$ 100.00
Filing a reply (except where defendant agrees to pay all of the claim and costs)	\$ 25.00
Filing a notice of trial	\$ 50.00
Search of a record of a proceeding (except a search by a party or by the party's lawyer)	\$ 2.00
Copies, per page	\$.50
Certified copy of a document on a court file	\$ 5.00
Certificate of judgment or any other certificate	\$ 5.00
Filing a copy of an order from another registry of the court	\$ 5.00

Fees and expenses for sheriff's services

See Supreme Court Rules Appendix C, Schedule 2 - Fees Payable to Sheriff

(http://www.yukoncourts.ca/pdf/appendix_c.pdf) and pay directly to the Sheriff's Office.

Small Claims Court Forms

The following forms are available from the Small Claims Clerk and on the web site at <http://www.justice.gov.yk.ca/prog/formscat.html#courtservices>:

1. Claim
2. Reply
3. Counterclaim
4. Third Party Claim
5. Consent to Act as Litigation Guardian
6. Notice to Alleged Partner
7. Affidavit of Service
8. Notice of Application
9. Affidavit
10. Requisition for Order
11. Consent Order or Order Without a Hearing
12. Pre-Trial Consent Order
13. Default Judgment (for liquidated amount)
14. Default Judgment (for amount to be assessed) and Date of Hearing
15. Notice of Trial
16. Order
17. Summons to Witness
18. Warrant for Arrest of Defaulting Witness
19. Writ of Seizure and Sale
20. Writ of Delivery
21. Notice of Examination
22. Warrant of Arrest
23. Warrant of Committal
24. Notice of Intention to Proceed
25. Notice of Withdrawal
26. Response
27. Notice of Appointment or Change of Lawyer

NOTES

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For more information, or to obtain copies of these publications, please contact:

Small Claims Court

Court Registry

Ground floor, Law Courts

2134 Second Avenue (between Wood Street and Jarvis Street)

Box 2703, Whitehorse, Yukon Y1A 2C6

www.yukoncourts.ca

Tel: 867-667-5619

Toll free in Yukon: 1-800-661-0408, extension 5619

Également disponible en français