

RULE 12 – SUBSTITUTED SERVICE

Court may order substituted service

- (1) Where for any reason it is impractical to serve a document as set out in Rule 11, the court may order substituted service, whether or not there is evidence that the document will probably reach the person to be served or will probably come to the person's attention or that the person is evading service.

How substituted service effected

- (2) Substituted service of a document is effected by taking the steps that the court has ordered to bring the document to the attention of the person to be served.

Service of order required

- (3) Unless otherwise ordered, a copy of the order for substituted service of a document shall be served with the document, except in the case of an order for substituted service by advertisement, in which case the advertisement shall contain a reference to the order.

Substituted service at residence without order

- (4) Subject to subrule (10), if an attempt to serve a document on a person at the residence of that person is unsuccessful, the document may be served by doing both of the following:
 - (a) leaving it, during or after that attempt, in a sealed envelope addressed to that person, at the residence of that person, with anyone who appears to be an adult member of the same household; and
 - (b) subsequently mailing a copy of the document addressed to the person at that residence.

Effective date of service

- (5) A document served under subrule (4) is deemed to be served on the same day of the week, in the calendar week following mailing, as the day of the week on which the document was mailed or, if that day is a Saturday or holiday, on the next day that is not a Saturday or holiday.

Affidavit

- (6) If service is effected under subrule (4), an affidavit of service must state that the deponent believes that the address at which the document was left and to which the document was mailed is the residential address of the person to be served.

Substituted service by mail without order

- (7) Subject to subrule (10), a document may be served by mailing it, together with an acknowledgment of receipt card in Form 12, by ordinary prepaid mail or by registered mail to the residential, business or postal address of the person to be served.

Effective date of service

- (8) Service of a document under subrule (7) is effective when the sender receives
- (a) the acknowledgment of receipt card, or
 - (b) a post office receipt bearing a signature that purports to be the signature of the person served.

Affidavit

- (9) If service is effected under subrule (7), an affidavit of service must state that the deponent believes that the address to which the document was mailed is the residential, business or postal address of the person served.

Limits on substituted service without order

- (10) Subrules (4) to (9) do not apply to
- (a) a family law proceeding for divorce,
 - (b) a subpoena,
 - (c) a summons,
 - (d) an appointment to examine a person in aid of execution, or
 - (e) a proceeding for contempt.

If document does not reach person

- (11) Even though a document has been served in accordance with subrules (4) to (9), a person may show, on an application to set aside the consequences of default, on an application for an extension of time or on an application in support of a request for an adjournment, that the document
- (a) did not come to the person's notice, or
 - (b) did come to the person's notice at a time later than when it was served or effectively served.