

NEWFOUNDLAND  
AND LABRADOR



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## SMALL CLAIMS COURT

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Booklet #1  
What is Small Claims Court?

Provincial Court of Newfoundland and Labrador





## What is Small Claims Court?

Small Claims Court is a court of law, but it's not designed for lawyers. It's meant to be a do-it-yourself kind of court, where ordinary people can handle their own cases, whichever side they're on. Small Claims Court is a place where people can go to settle their differences in cases involving claims of under \$25,000. It has less formal and less complicated rules and procedures than other courts. For example, the forms you use in Small Claims Court are the fill-in-the-blank type.

If you're thinking of making a claim in Small Claims Court, or if you're already involved in a case, this booklet is for you. It answers questions about the Court and it describes what happens in an ordinary Small Claims Court case. Even if you do hire a lawyer to represent you, it is helpful to know what to expect.

For more information about any of the steps along the way, see the other titles in this series. They're listed at the back of this booklet. For answers to particular problems or questions not covered, read the [Small Claims Rules](#) or seek legal advice.

## Do I have to know legal language?

No. There aren't many legal words you'll have to know in Small Claims Court, but there are a few. Here are the main ones:

- The **plaintiff** is the person who starts a claim in Small Claims Court.
- The [statement of claim](#) is the form the plaintiff uses to make the claim.
- The **defendant** is the person who the claim is made against. In other words, this is the person who is being sued by the plaintiff.
- The [reply](#) is the form the defendant uses to answer the statement of claim.
- **Serving** a document means getting it to another person in whatever way the law requires.



## What kind of cases go to Small Claims Court?

As you'd expect, the cases that come to this Court involve smaller amounts of money. The highest amount that the plaintiff can sue for is \$25,000. This includes all claims listed on the statement of claim, no matter how many defendants there are, and it includes the value of any goods that the plaintiff is asking for.

It does not include any interest or expenses that the plaintiff might be entitled to. (The expenses that anyone can claim in Small Claims Court are quite limited and, in many cases, they amount to no more than the filing fee and the cost of document service.)

There are some kinds of cases that can't be handled in Small Claims Court, no matter how little money is involved. Some cases involving landlord and tenant issues, defamation cases (meaning claims of libel or slander), and lawsuits and cases involving title to land cannot be heard in Small Claims Court. There are also limitations on how long you have to bring a case to court. Information on this is available in the [Limitations Act](#).

Some cases have had an order made in another court and the orders are filed in the Small Claims Court to collect the outstanding debt. These might include an order for restitution made in a criminal court or an order relating to the Residential Tenancy Act. In these cases, creditors file the judgment in the Small Claims Court so that they can use any of the available enforcement options to collect the debt.

If you are trying to enforce an order relating to the Residential Tenancy Act, please first consult the [ServiceNL website](#). The "[if you have a problem](#)" section describes how to handle issues between landlords and tenants. Make sure you have worked with the ServiceNL office before bringing anything to Small Claims Court.

See the next few pages for an example of a Small Claims case.



## The Facts

Jane loaned \$2,000 to John. He agreed to pay it back in six months. The due date arrived and he paid her \$500 but that's all. She has tried writing and calling him, but he avoids her. Finally, Jane decides her only choice is to sue John in Small Claims Court.

### Step One: The Statement of Claim

The first thing Jane has to do is get a [statement of claim form](#) from the Small Claims Court registry closest to her (located at any Provincial Court in the province) and fill it out. The instructions are all included with the form.

She could also find the form that she needs to fill out [online](#). This form can be completed online and then printed, or Jane could print out the form and fill it out by hand. Since she will need to give copies of the forms to several different parties, she should ensure that five copies are printed.

Once the form is filled out, Jane takes all five copies of the form to the Small Claims Court registry, where a staff member behind the counter checks it for her. She pays the filing fee and the clerk gives her back several copies of the form and a blank reply form. This whole process is called “filing” the statement of claim.

For claims under \$500, the filing fee is \$50. For claims between \$500 and \$25,000, the filing fee is \$100.

It is also possible for Jane to file her claim electronically, using the Court's [e-Filing](#) system.



The blank reply form and one of the copies of the statement of claim is for John. This will tell him what the lawsuit is about and will give him the form he needs to answer it. Jane knows that he is avoiding her, so she asks a friend to take the papers to John. As long as John is living in the province he has 10 days, from the day he received the papers, to file his reply. If John lives outside of Newfoundland and Labrador, he has 30 days to reply instead.

## Step Two: The Reply

When John receives the statement of claim, he is upset. John agrees that he owes Jane some money, but disagrees with her on how much he should have to pay. John says he can pay Jane back \$800, but he asks for a payment schedule of \$100 a month for 8 months.

John fills out the [reply form](#). In it he admits that he owes her \$800, but says \$700 of the money Jane gave him was payment for cabin renovations. He denies that he owes any interest and asks for a payment schedule. He says he could pay \$100 a month for eight months.

John takes the completed form to the Small Claims Court registry where Jane filed the statement of claim (the address that was on the form). The staff checks the form and accepts it for filing. There is no fee for filing the reply.

Now John has to serve a copy of the reply to Jane. Because he is upset, he doesn't want to serve it to her himself and he decides to send the documents using registered mail instead.



## Step Three: The Settlement Conference

The next thing that happens is that Jane and John both get a notice in the mail telling them to come to a settlement conference.

At this settlement conference, the judge looks at the statement of claim and the reply, and asks Jane and John a few questions. The judge tries to see if there is any chance the two can agree.

Jane eventually agrees that the loan was supposed to be interest-free, but they can't agree about the \$700 for cabin renovations. Jane also isn't happy about waiting eight months to get back \$800.

Since John agrees that he owes at least \$800, the judge grants Jane a Judgment for the \$800 right away. However, since John and Jane cannot come to an agreement about the remaining \$700, a trial needs to be held to deal with that issue. The judge talks to them about what sort of evidence each of them will need to bring and the Court sets a date for the trial.

## Step Four: The Trial

At the trial, the judge lets Jane and John testify as witnesses. This gives them a chance to tell their own stories to the judge, plus they can reply to what the other person says, and call their own witnesses. In this case, the judge accepts the evidence of Jane's contractor that John did not do the work he says he did. The judge's decision is that John must pay Jane the \$700 remaining on the loan.



## Step Five: Registering the Judge's Decision

Jane now takes the judge's decision to the Small Claims Court registry and completes a [judgment form](#) and a [judgment registration form](#). This costs \$25, but the money is added to the amount that John owes. A judge will take the form back to his or her chambers and sign it, and then bring it back to the clerk at the registry who will register the judgment with the Sheriff's Office.

After that is complete, Jane has to contact the [Sheriff's Office](#) and give instructions about how to enforce the judgment order. After discussing this with a clerk at the Sheriff's Office, she realizes that she doesn't have enough information about John (such as his bank account information or information about his assets) to go ahead with this process.

She decides instead to ask the Court to schedule a payment hearing for her. This involves going back to the Small Claims Court registry and filling out a [summons to a payment hearing form](#). The fee for this is \$10. The Court will then notify Jane and John of the date for the payment hearing, and provide Jane with documents to serve to John. In addition, Jane will receive a list of suggested questions to ask during the hearing.

## Step Six: The Payment Hearing

At the payment hearing, Jane asks John questions about his finances. The judge may ask some questions too. Finally, at the payment hearing, the judge orders that John pay \$100 a month plus \$500 in April, when he receives his income tax return.



## What if the defendant ignores the whole thing?

This often happens. A person receives a statement of claim and just does nothing. If that happened to Jane, she would have to go back to the Small Claims Court registry after the time limit for John's reply had passed. This is 10 days after receiving the papers if John lives in the province, or 30 days if he lives outside of Newfoundland and Labrador.

If Jane has a [certificate of service form](#), she could prove that John had been properly served with the papers and she would then get an order for payment against him for the amount she was claiming. There is a fee to file this order that Jane would need to pay. This is called a default judgment and she can enforce that order just as if it had been made by a judge following a trial.

## What will it cost me for my case?

That will depend on how you handle your case, how the defendant responds to your claim and how you choose to proceed if you win your case.

There are fees set by the Small Claims Rules for registry services and Sheriff services. You can review the list of fees in the Small Claims Rules at the court registry or under Small Claims Court through the Provincial Court's website at <http://www.assembly.nl.ca/legislation/sr/regulations/rc970052.htm>.

In addition to the set fees, there may be expenses and interest added on to the total owing. If any costs are to be added to anyone's case, the judge will make the decision.



In most situations, the fees and expenses can be added to the total amount the unsuccessful party has to pay. This means the costs the defendant had to pay may be charged against the plaintiff if the defendant is successful with a counterclaim.

If you do end up hiring a lawyer to represent you, the fees you pay to the lawyer can't be added to your judgment, unless ordered by the judge.

### **If I win my case, am I guaranteed to get my money?**

Unfortunately, no. The Court can give you tools you can use to collect your money – such as a payment hearing – or can recommend you get a garnishing order at the Sheriff's Office. But some people will not pay and some cannot.

It is frustrating to spend time and money to prove a claim in court and then still be unable to collect what is owing to you. If you are thinking about making a claim in Small Claim Court – or in any court, for that matter – you should first consider what your chances are of collecting, if you should win.

### **What if I don't like the judge's decision?**

A Small Claims Court decision can be appealed to the Supreme Court of Newfoundland and Labrador, but an appeal will cost money, take time, and the result might not be any different. For more information about the costs associated with an appeal, contact the [Supreme Court](#) registry nearest you.



## How can I get more information?

The Provincial Court of Newfoundland and Labrador is working on a series of booklets that describe court processes. They will be available from any Small Claims Court registry and can also be found online through the [Provincial Court's website](#).

The other titles in the series will be:

- #2 Making a Claim
- #3 Replying to a Claim
- #4 Serving Documents
- #5 Getting Ready for Court
- #6 Getting Results

Small Claims Rules – For more detailed information you may want to look at the Small Claims Rules themselves. They are available at <http://www.assembly.nl.ca/legislation/sr/regulations/rc970052.htm>.

The staff who work behind the counter at any Small Claims Court registry are helpful, but there are limits to what they can do for you. They cannot give legal advice and they can't fill out your forms for you, but they will gladly answer many of your questions about Small Claims Court processes and procedures.

The Public Legal Information Association of Newfoundland and Labrador (PLIAN) is also a useful resource. It is a non-profit organization dedicated to educating Newfoundlanders and Labradorians about the law. They can provide further information and assistance, including a referral service to lawyers who can help with Small Claims matters. Their website is <http://publiclegalinfo.com/>.

The information contained in this guide is simply an overview of the significant provisions of the [Small Claims Act](#) and the Small Claims Rules. It is not intended as a substitute for the Act or the Rules, which should be examined for specific information. Also, the information is not intended to be legal advice. If you have any legal questions, you should see a lawyer.