

## C Small Claims Court Guide

### Serving documents

A lot of paperwork is involved in almost any lawsuit, and it's important that copies of documents get to everyone who needs them.

Getting the paperwork from one person to another is called "service of documents".

\*In Nunavut, the Notice of Claim or Notice to Third Party is to be served by the Sheriff or his delegate only (Rule 9.1).

#### **If the party is an individual:**

If you are suing an adult, the two methods of service available are:

- personal service, and
- service by registered mail.

To serve a document personally, you or someone acting on your behalf will simply hand the document to the party. If the person refuses to take it, you may drop it on the floor at his or her feet.

To serve a document by registered mail, you will need to provide proof of service (see section 8 on how to prove the document has been served).

If the party is under the age of 19, different service procedures apply. You may need to seek legal advice as the Nunavut Rules of Court guide this process.

#### **If the party is a company:**

You may send the document by registered mail to the address shown on the Notice of Claim. You will need to provide a proof of service. You may take it there personally and leave it at the registered office.

Another way to serve a company is to take it to the company's place of business and leave it with the person who appears to be in charge there. You should get that person's name and title/position.

You may also leave it with the director or officer of the company. And, finally, if the company has a trustee-in-bankruptcy, or a liquidator, or a receiver-manager, you may leave it with that person.

If the party is registered in Nunavut as an extra-territorial corporation (its main place of business is outside the territory), you may leave a copy of the document with the person who is appointed to be its attorney, under Section 389 of the *Business Corporations Act*. Alternatively, you may send these documents to the attorney by registered mail. You would get this information from the Legal Registries in Iqaluit.

### **If the party is a partnership:**

A partnership doesn't have a registered office. To serve a partnership you may take the document to its place of business and leave it with a receptionist or with the person who seems to be in charge. Or, you may mail it by registered mail to, or leave it with, a partner. You will need to provide a proof of service by completing and filing a Certification of Service.

### **If the party is an unincorporated business:**

If the business is not an incorporated company and not a partnership, the owner of the business will be named as the party. This is the person you must serve, and the rules for serving an individual apply.

### **If the party is a municipality:**

If you are serving a municipality, you must leave a copy of the document with the clerk or deputy clerk or some official. The *Municipal Act* has special notice periods and limitation periods that are very short. The registry will not be able to provide this information and you may need legal advice.

### **If the party is a young person, a society, an unincorporated association or a union:**

If you are serving any of these, there are special rules about service, and registry staff may help you with these.

### **If the party is the Government of Nunavut:**

If you are suing the Territory of Nunavut, you may serve the document personally by leaving it during business hours or by registered mail:

Legal and Constitutional Law  
Box 1000, Station 540  
Sivummut Building  
Iqaluit, NU X0A 0H0

### **Do I have to serve it myself?**

No, you don't. Often it will be a simple thing - either sending it by registered mail, or dropping it off at an office, or having someone serve it for you.

### **What if I can't serve the party?**

You might find that when you go to serve your document the party has moved and cannot be found. Or maybe the party knows you are trying to serve the notice and is avoiding you. In any case, there is something you may do.

You may make an application to the Registrar of the Small Claims Court to let you serve the document in some other way. In Nunavut, the Notice of Claim or Notice to Third Party is to be served by the Sheriff or his delegate only (Rule 9.1).

For example, if you know where the party lives but he or she refuses to come to the door, or arranges not to be there whenever you knock, you might get permission from the Court to serve the document by taping it to the party's front door.

In some situations, the Registrar might allow you to serve the document by:

- leaving it with a relative of the party
- mailing it by regular mail, or
- leaving it at the party's last known address.

(Alternative methods of service are sometimes called "substitutional service": that is, they are substituted for the normal method.)

Before asking for some other method of service, you should already have tried several times to serve it in the normal way. Be prepared to give details of how you tried to serve the document and what happened, and why the method of service you are asking for will succeed.

### **How do I prove that a document has been served?**

That depends on who served the document and how.

If you or someone else served the document personally, you may prove it by filing a Certificate of Service. The certificate simply says who served the document and how and when it was served.

If the document was served by registered mail, you must file a Certificate of Service, a copy of the document that was mailed attached to the certificate and a proof of service to show the document has been served.

A proof of service by registered mail may be obtained either by phoning toll free 1-888-550-6333 and asking for a signature copy or accessing the Canada Post internet site: <http://www.canadapost.ca/> and printing the delivery confirmation form.

If there is more than one party served, a separate Certificate of Service must be prepared for each party. You may ask the registry for additional copies of the Certificate of Service to attach to the service copy of the document you served.

### **How do I change my address for service?**

It is up to you to be sure that the Court and the other parties in the lawsuit always have your proper address so that they may serve documents on you. Write to the Small Claims registry to let them know if your address changes. A postcard will do - just be sure to print clearly your name, your new address and the file number of your case. You will have to send the same thing to every other party in the case; that is, claimants, defendants and third parties, if there are any.

If you don't advise the registry and the other parties involved of your change of address, they are entitled to keep sending things to your old address and it will not be possible to keep you informed about what is happening in your case.

## **How may I get more information?**

This is one in a series of booklets available online or from the Small Claims Court Registry. The titles in the series are:

**A ( pages 1- 4 ) WHAT IS SMALL CLAIMS COURT?**

**B ( pages 1-7 ) MAKING A CLAIM**

**C ( pages 1-4 ) SERVING DOCUMENTS**

**D ( pages 1 – 5 ) REPLYING TO A CLAIM**

**E ( pages 1 – 4 ) GETTING READY FOR COURT - PART 1 - MEDIATION**

**F ( pages 1 – 3 ) GETTING READY FOR COURT – PART 2 - THE TRIAL**

**G ( pages 1 – 3 ) DEFAULT**

**H ( pages 1 – 3 ) WITNESSES**

**CIVIL RULES** - For more detailed information you may want to look at the small claims court rules themselves. The rules have been written for non-lawyers.

The people behind the counter at the Small Claims Registry are helpful. They cannot give legal advice and they cannot fill out your forms for you, but they will gladly answer your questions about Small Claims Court procedures.

The information contained in this booklet is simply an overview of the significant provisions of the Small Claims Rules. The information is not intended to be legal advice. If you have any legal questions, you should see a lawyer.

### **Nunavut Legal Aid Offices:**

Maliiganik Tukisiinaikvik (Iqaluit) – (867) 979-5377

Keewatin Legal Services (Rankin Inlet) – (867) 645-2536

Kitikmeot Law Centre (Cambridge Bay) – (867) 983-2906

High Arctic Law Office (Pond Inlet) – (867) 899-8707

### **Civil Registry of the Nunavut Court of Justice:**

Main line – (867) 975-6102

Toll free – 1-866-286-0546