

MEDIATION AT THE SMALL CLAIMS DIVISION

Mediation at the Small Claims Division

Before referring your dispute to the court, you are required by law to consider the use of private prevention and resolution processes, including mediation. This may help you find an amicable solution to your dispute.

One mediation session is offered free of charge when you file an application at the office of the Small Claims Division of the Court of Québec.

Mediation

Mediation is a meeting at which both parties present their case to a mediator, with the goal of arriving at a settlement. The mediator, who can be a lawyer or notary accredited by the relevant professional order, remains impartial at all times.

You can play an active role, with the other party, in defining a solution that is acceptable to both of you. This solution will then become your settlement.

Applying for mediation

To obtain a mediation session free of charge at small claims court, you must

- open a file at the Small Claims Division by completing the form Application (Action filed with the Small Claims Division);
- check the box on the form stating that you accept the offer of mediation.

If the other party also accepts mediation, the clerk will assign a mediator to your case.

The mediator then contacts you and the other party to invite you to attend a mediation session, at a time that is convenient to you both.

Steps in the mediation process

During the mediation session, you and the other party will each present your version of the dispute to the mediator. The mediator will listen, and then explain the legal implications of your situation.

Next, the mediator will suggest a few possible ways to reach an agreement.

The mediation session is private and confidential, and lasts about one hour. There are no formalities involved.

If you reach an agreement

If you reach an agreement with the other party you must file, at the court office, either an agreement signed by you and the other party, or a notice stating that your case has been settled amicably.

You can ask to have your agreement homologated by the court or a special clerk, which will give it the same force as a court judgment.

If you fail to reach an agreement

If you fail to reach an agreement with the other party, your case will follow its normal course and will be heard by a judge.

Mediation will not delay the hearing of your case, if necessary to resolve your dispute.

The mediator will file a report on the mediation session at the court office. The report will mention only

- the facts of the case;
- the position of each party;
- the points of law raised.

For more information

The information summarized in this document was valid at the time of printing. For more information, go to the website of the Ministère de la Justice at www.justice.gouv.qc.ca, or contact

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What can you do if a neighbour builds a fence on your land, if you have a client who fails to pay a professional invoice for several months, if your plumber does a bad job and causes a flood in your house, or if you are refused a refund for a faulty mattress?

There are many situations in which you may decide to claim an amount of \$15,000 or less from an individual or company by filing an application at the Smalls Claims Division of the Court of Québec.

Cases head by the Small Claims Division

The Small Claims Division at the Court of Québec hears cases in which the plaintiff

- is claiming \$15,000 or less from another person;
- wishes to terminate a contract for \$15,000 or less.

At the Small Claims Division, you will be able to resolve your dispute without having to pay professional fees. It is the only court where you are required to act yourself, without being represented by a lawyer.

A claim of more than \$15,000 may be reduced so that it can be heard by the Small Claims Division.

Condition for filing an application at small claims court

You can only file a claim at small claims court if you are

- an individual;
- an organization (such as a legal person, corporation, syndicate of co-owners, partnership or association) that employed no more than 10 people in the 12 months prior to the claim.

How to file an application

You can file an on-line application at Small Claims Division

- by completing the interactive form Application (Action filed with the Small Claims Division) and sending it to the court office at the courthouse;
- by mailing the documents supporting your claim to the court office at the courthouse, or filing them in person;
- by paying the required fees, except in certain cases.*

You can also mail your application to the court office, or file it in person.

* The fees vary depending on the amount claimed and the applicant's status. For more information see the Ministère de la Justice website.

When to send a formal notice

In some cases, before filing an application you are required to send the other party a formal notice. This is a letter in which you demand that the other party perform a specified action, and is especially important in a case involving a latent defect or material damage for which a municipality is liable.

Because you must be able to prove that the other party has received your formal notice, you should send it by registered mail or have it served by a bailiff.

In other cases, sending a formal notice is preferable, but not compulsory.

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:

[Summarize the facts of the case.]

This letter constitutes formal notice to pay me the sum of \$XX within ten days. Otherwise, I may take legal action against you immediately and without further notice.

I confirm that any proposal to engage in mediation or negotiation will be considered before court action is taken.

Please act accordingly.

Signature
Your address and telephone number

Where to file your application

In your application, you must specify the courthouse and judicial district where your application will be filed.

The following table shows where to file your application, depending on the situation concerned.

Situation	Judicial district
Property insurance	District where the insured person lives District where the insured loss occurred
Contract	District where the other party lives District where the contract was signed
Insurance contract	District where the insured person lives
Consumer contract	District where the consumer lives
Employment contract	District where the employee lives
Harm or loss	District where the other party lives District where the harm or loss occurred
Any other claim	District where the other party lives

When to file your application

You should file your application as soon as possible after the event that caused the dispute. In addition, some claims must be filed within a specific time, for example against a municipality or, in a case involving a latent defect, against the former owner of your house.

For more information, contact a lawyer.

Judgment

At the hearing, the judge hears both parties. If you are the plaintiff, the judge may grant all or part of your application, or may agree with the other party and dismiss your application. You cannot appeal the judge's decision.

The judgment must be given at the hearing or within four months after the hearing.

Both parties receive a copy of the judgment by mail.