



COURTS SERVICE
An tSeirbhís Chúirteanna

A guide to Small Claims

What is the Small Claims Procedure?

The Small Claims procedure is an alternative method of commencing and dealing with a civil proceeding in respect of a small claim and is provided for under the District Court (Small Claims Procedure) Rules, 1997 & 1999. It is a service provided in your local District Court office and is designed to handle consumer claims cheaply without involving a solicitor. To be eligible to use the procedure, you, the "consumer" must have bought the goods or services (or the service) for private use from someone selling them in the course of business. The procedure is not available for use by one business person against another.

Who administers the Small Claims Procedure?

A District Court Clerk, called the Small Claims Registrar, processes small claims. Where possible, the registrar will negotiate a settlement without the need for a court hearing. If the matter cannot be settled the registrar will bring your claim before the District Court.

What kind of claims can be dealt with?

- (a) a claim for goods or services bought for private use from someone selling them in the course of a business (consumer claims)
- (b) a claim for minor damage to property (but excluding personal injuries)
- (c) a claim for the non-return of a rent deposit for certain kinds of rented properties. For example, a holiday home or a room / flat in a premises where the owner also lives

provided that a claim does not exceed €2,000.

Claims in respect of other matters relating to rented accommodation must be brought to:

Private Residential Tenancies Board, 2nd Floor,
O'Connell Bridge House, D'Olier Street, Dublin 2.
Website: www.prtb.ie

Excluded from the small claims procedure are claims arising from:

- (a) a hire-purchase agreement
- (b) a breach of a leasing agreement
- (c) debts

Where can I get information?

The Small Claims Registrar (or his/her staff) will provide help, information and guidance to ensure your claim is appropriate to the small claims procedure. Details of the location of your local District Court Office are available on the Courts Service website www.courts.ie and contact details are available under the Courts Service entry in the Green pages section of the *fircom* telephone directory. Information can also be obtained from Citizens Information Centres and the Office of the Director of Consumer Affairs.

How do I make a claim?

Contact your local District Court Office. The Small Claims Registrar will provide you with a special application form. The form can also be downloaded from the Courts Service website. The fee for making a small claim is €15.

What happens then?

The completed application form together with the fee of €15 should be lodged with the Small Claims Registrar. A copy of the completed application form will be sent by the Registrar to the person/party against whom you are making a claim, called the Respondent. The original application form will be kept in the Registrar's office.

What happens if my claim is disputed?

If the Small Claims Registrar receives a notice from the Respondent disputing your claim or making a counterclaim against you, the Registrar will contact you and let you have a copy of the Respondent's answer. The Registrar may interview and negotiate with both parties to try to reach an agreement.

What happens if my claim is not disputed?

If the Respondent admits your claim he/she is required to notify the Registrar's office by returning a Notice of Acceptance of Liability form. If the Respondent does not reply, the claim will be automatically treated as undisputed. The District Court will then make an order in your favour (without you having to attend court) for the amount claimed, and direct that it be paid within a short specific period of time.

What is a counterclaim?

A counterclaim is a claim made against you by the Respondent.

What happens if the Small Claims Registrar fails to resolve my claim?

If the Small Claims Registrar is unable to bring about a settlement he/she will bring the case to the District Court for a hearing, if requested to do so.

What happens if the Small Claims Registrar calls both parties to his/her office?

The meeting will be informal and private. The Small Claims Registrar will probably ask you and the Respondent to outline the facts. He/she may question both parties in an effort to clarify the issues. If an agreement cannot be reached the Small Claims Registrar may then fix a date, time and location for a hearing of the claim before a judge of the District Court. The date and time of the hearing and the address of the courthouse will be sent to both parties by post.

Do I have to attend the District Court hearing?

Yes. On the court day remember to bring with you documentary evidence supporting your claim, e.g. letters, receipts, invoices.

What will it be like at the District Court hearing?

The case will be heard in public as part of a normal sitting of the District Court. Evidence must be given under oath or affirmation and the Respondent can question you on matters relating to your claim (called cross-examination).

Can I have a solicitor present?

Yes, you may engage a solicitor at your own cost. The Respondent may do likewise. The whole point of this procedure is that you can bring a claim without using a solicitor. If you do engage one you will have to meet his/her costs even if you win your case.

Can I have a witness?

Yes, but if expenses are incurred you will have to pay those yourself. If you think it necessary, in your own interest, to have an expert's report you will have to pay for this. Expert reports and witness expenses must be paid for by you.

Likewise, if the Respondent calls experts or witnesses he/she will be liable for their costs, if any.

What should I do if a witness does not agree to attend?

The Small Claims Registrar will, if you request and pay the small requisite fee, prepare and issue a witness summons on your behalf requiring a witness to attend the hearing. The Small Claims Registrar will arrange service of the summons. You will be obliged to pay for any financial loss incurred by the witness in attending court, if claimed.

What will happen in the District Court?

The judge may require the Small Claims Registrar to assist the court at the hearing. When your case is called the Court Registrar will call you to the witness box to give evidence. The Respondent will also be given an opportunity to give evidence. Each witness can be subject to cross examination by the opposing party or their legal representatives.

What happens if the matter is decided in my favour?

If the matter is resolved in your favour, the Respondent will be notified of the court's decision a few days after the hearing and will be allowed approximately 4 weeks to pay the amount awarded by the court.

What happens if the Respondent does not pay?

If the Respondent does not pay you can arrange to send the Court Order (Decree) to the Sheriff for execution. There is a fee payable to the Sheriff, but this will be refunded to you if the Sheriff succeeds in executing the Court Order. The execution of the Court Order is a matter for the Sheriff. Information on enforcement

procedures is available from the Small Claims Registrar. For various reasons the Sheriff may not always be successful in the execution of Court Orders.

Can the decision of the District Court be appealed?

Yes. Both the Applicant and the Respondent have the right to appeal an order of the District Court to the Circuit Court. **Costs may be awarded by the Circuit Court but that is a matter for the individual Circuit Court judge to decide.**

A word of warning

The principal purpose of this leaflet is to tell you how to make a claim. Deciding on whether or not to make a claim is a matter for yourself and only you can be the judge of that. In making a claim **you** must be sure of the name and address of the person or company against whom you want to make a claim. These details must be accurate in order to enable the Sheriff to execute the Court Order (Decree). When a Respondent is a company, rather than an individual, it is important to ascertain the correct title of the company. This may be obtained from the Companies Registration Office, telephone no. **01-8045200/1, or low call 1890 220 226**. Clarifying this may entail some research on your part. **Remember, there is little satisfaction to be gained from winning your case if the Respondent has no money to pay a judgement debt.** Consider carefully before deciding to make a small claim but remember that the procedure is there to help you to make your small claim with a minimum of procedural red tape and at little cost.