

Practice Directions: Section 17 - Small Claims Act

January 28, 2000

This Practice Direction will replace the Practice Direction dated April 22, 1998 pursuant to s. 17 Small Claims Act regarding the Small Claims Mediation Practicum Project (now called the Court Mediation Practicum Program).

Commencing February 1, 2000 disputes filed in Provincial Court Small Claims Registries at Robson Square, Surrey, Delta and Nanaimo will be referred to the Court Mediation Practicum Program except personal injury cases arising from motor vehicle accidents and those disputes described in Rule 7(2) Small Claims Rules.

Referrals will be made in four ways:

1. If a Claimant or Defendant requests a referral to mediation in cases where a Reply is filed, and the other party agrees after being contacted by the Program.
2. By a judge who refers a dispute from a Small Claims Settlement Conference with the consent of the parties.
3. All construction disputes where the claim and/or counter claim relate to a construction dispute.
4. The first files upon which a Reply is filed in any given month which do not fall within (3) above, allotted as per the attached schedule:

A construction dispute is any case, whether for debt or other than debt, involving building construction, improvement or renovation, where a party is claiming non-payment for labour and/or materials, or that certain work was not done, was incomplete, poorly done or that it was overcharged.

If a case is resolved at mediation, unless the agreement does not involve the payment of money, a Payment Order shall be filed by the parties immediately following the mediation. If either party does not comply with the Payment Order a Summons to a Payment Hearing may be issued.

Notwithstanding the above, the parties at mediation may agree that a Payment Order for the monetary portion of the agreement will not be filed unless the mediated agreement is not complied with. The agreement not to file should contain a process in the event of non-compliance similar to the process provided for in Rule 7(20).

If a case is not resolved at mediation, a Notice of Settlement Conference will be sent to the parties by the court registry and a settlement conference will be held pursuant to Rule 7. Trial Coordinators and schedulers will attempt to schedule the settlement conference and trial in the same time frame as if the parties had not participated in the Court Mediation Practicum Program.

Robert W. Metzger,
Chief Judge

Schedule

Robson Square - 30 disputes

Surrey - 30 disputes

Nanaimo - 16 disputes

Delta - all disputes