

SMALL CLAIMS

The Small Claims Court was designed to be an easier and less expensive way of resolving consumer complaints. If you have a claim which does not exceed €2,000.00, you may be able to have the matter settled without the necessity of employing a Solicitor. Your local District Court Office provides this service. Most matters dealt with in the Small Claims Court relate to faulty goods and bad workmanship. Faulty electrical goods and cars are often the subject matter of a complaint. Minor damage to property also falls within the scope of the Small Claims Court as does the return of security deposits in holiday lettings. There are many claims which cannot be dealt with in the Small Claims Court however. These include claims arising out of libel or slander, title to property, items purchased at auction, traffic accidents and personal injuries even if caused by faulty goods or services. A claim relating to the property of a marriage cannot be dealt with in the Small Claims Court.

To avail of the Small Claims procedure, you must have bought goods or services from someone who provided same in the course of a business.

How does the Small Claims Court procedure work?

Well, if your claim is one which can be dealt with by the Small Claims Court, you will start by completing an application form and sending it to the District Court Office in the area where the person against whom you are claiming resides or carries on a business. The application must be accompanied by a fee of €25. The form is a simple one page document and may be obtained from your local District Court Office or it can be downloaded from the web-site www.courts.ie. If you need any assistance in completing the form, the District Court Registrar will be able to help. The Registrar cannot give legal advice and cannot fill the form for you but will answer any questions you have regarding the Small Claims procedure.

If your claim relates to faulty goods, it is not sufficient to put on the application the name of the shop where you purchased the goods.

You must also include the name and address of the person who owns the shop or business (against whom you are claiming) or the address of the registered office of the Company as the case may be. If your claim is against a Company, you must ensure that you have the correct Company name. You can check this by telephoning the Company Registrations Office.

What happens next?

Once you have sent in your Application and paid the €25 fee, the process commences. The District Court Registrar forwards a copy of your claim to the person or Company against whom you are claiming (i.e. the Respondent). The Registrar gives the Respondent 15 days to reply.

If no reply is forthcoming within this 15 day period, then the claim is treated as undisputed and an Order will be made in your favour. The Respondent will be directed to pay the amount to you within a specific short period, usually within 28 days. If the Respondent does not comply with the Order, you must ask the District Court Registrar to forward the Order to the Sheriff for execution.

If on the other hand the Respondent replies to your claim within the 15 day period, the District Court Registrar will try to settle the matter by negotiating with you and the Respondent.

The Respondent may admit the claim and agree to pay immediately or may offer to pay by instalments. The Registrar will try to have an agreement reached.

The Respondent may dispute the claim in which case, the Registrar will notify you and will then still try to have a settlement agreed. You may be asked to attend the District Court Office in an effort to resolve the matter informally.

If the Registrar fails to settle the dispute in this way, then a date and time will be fixed to have the matter dealt with in the District Court by the District Court Judge. Both you and the Respondent will be notified by post of the place, date and time of the Court hearing. Your case will be heard in Court as part of the normal District Court sitting. You must attend and bring with you all relevant documents such as correspondence, receipts, invoices, etc. You may bring witnesses but you should bear in mind that your witness expenses must be paid by you regardless of whether you win or lose the case. You may question the Respondent and must reply to any questions which the Respondent asks you. All evidence will be given under oath. You may engage the services of a Solicitor but again, you will be responsible for your Solicitor's expenses even if you win the case. On the other hand, you will not have to pay the Respondent's costs or witness expenses or any legal expenses incurred by the Respondent if you lose the case.

If the result of your application to the Small Claims Court is an Order made in your favour, then the Respondent is notified and directed to pay within the specified time. If he does not do so, the matter is referred to the Sheriff.

So, is the Small Claims Court for you?

Well, if your case is straightforward and you do not need any witness, then the Small Claims Court may seem like a good option. If, on the other hand, your case is not straightforward but you feel that with professional expertise and/or the evidence of witnesses, you should win your case, then it might be wiser to have your Solicitor issue legal proceedings on your behalf so that if you succeed, the Judge might well make an order for the other party to pay your legal and witness expenses.

If you have a small claim and are planning to pursue it, you should first consider what you want to achieve and what you can reasonably expect.

Whichever you decide, remember that winning does not always necessarily result in payment. The Sheriff may be unable to collect for a variety of reasons. You may succeed in getting an order for payment but it will not be much use if the person against whom the order is made has nothing, or goes away without a forwarding address, or the Company has gone into liquidation. You could go back into Court for an Order to be paid by instalments but if the Order is ignored or there is a refusal to comply, you will have to go back into Court again. The process is long and tedious. There is nothing more frustrating than spending time and money in proving a claim and still being unable to collect what is owing to you!

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