

## Payment Hearings

The purpose of this fact sheet is to provide additional information on resolving a small claims action that is not provided in the *Small Claims Court* guide. For an introduction to settling a claim, counterclaim, or third party claim before a hearing, please refer to page 33 of the guide.

### What is a payment hearing?

A **payment hearing** is a means to resolve a small claims action by agreement of the parties. When the **defendant** admits owing a debt to the **claimant**, he or she may ask for a hearing to set up a payment schedule for the amount he or she owes. A payment hearing is presided over by the Clerk of the Small Claims Court.

### What is the advantage of a payment hearing?

A payment hearing gives the parties a chance to resolve their dispute without having to go through the process of a hearing before an adjudicator. It can save time and money. It allows a defendant to make payments on a set schedule so no judgment will be registered against him or her. Both parties are likely to follow a payment schedule because they were actively involved in its creation.

### How does a defendant request a payment hearing?

On the **Response (Form 2)**, the defendant checks off the box in Part B, which reads "*I request a payment hearing to establish a schedule for payment for the claim or the part of the claim that I have admitted.*" (This section applies to claims for debt only).

### How will we know if a payment hearing is scheduled?

When the defendant requests a payment hearing on the **Response (Form 2)**, the Clerk of Small Claims Court will contact the claimant to find out if he or she agrees to a payment hearing. If the claimant agrees, the Clerk will set a date and time for a payment hearing and notify the parties. If the claimant does not agree, he or she may request a default judgment. Likewise, if the parties cannot come to an agreement regarding a payment schedule, the claimant may request a default judgment.

**A defendant should be prepared to provide the following financial information at a payment hearing:**

- last year's income tax return,
- proof of present earnings, income and assets,
- any debts owed to and by the debtor,
- the means that he or she has, or may have in the future, of paying the debt.



### What happens if the parties reach an agreement at the payment hearing?

Where the parties agree on a payment schedule, they can sign a **Payment Agreement (Form 10)** and the Clerk can file it with the court.

### What happens if the defendant misses a payment?

The Small Claims Court is not responsible for enforcing payment schedules. If a payment is missed, it is up to the claimant to take action. He or she may request a default judgment for the balance owing without further notice to the defendant. If a judgment is made, the defendant must pay the full debt immediately.

