



Provincial Court of British Columbia

If a judge makes a payment order and the debtor does not pay, the Court does not collect the money for the creditor. There are different steps a creditor can take to collect the money owed if a judge makes a payment order.

The person who is owed the money is called the creditor. The person who owes the money is called the debtor.

Rule 11 of the *Small Claims Rules* sets out ways to collect or enforce a judgment. The most common ways to enforce an order are:

- A payment hearing
- A default hearing (if there was already a payment schedule in effect)
- Garnishing wages or bank accounts
- Seizure and sale of goods
- Registration against land

Also, some Residential Tenancy Branch decisions and Civil Resolution Tribunal consent resolution orders and final decisions can be enforced in the Provincial Court. Once these are filed with the Court, they have the same force as a Court judgment. They can be enforced using the same procedures described here.

You can find the forms needed to enforce a payment order on the Government of BC's Small Claims Forms webpage.

[Small Claims Rule 11](#)

[Small claims forms](#)

Payment hearings

At a payment hearing, a judge or judicial justice assesses the debtor's ability to pay and decides whether to create a payment schedule. Rule 12 of the *Small Claims Rules* is about payment hearings.

[Small Claims Rule 12](#)

When a creditor requests a payment hearing

To ask for a payment hearing, a creditor files a Form 12 *Summons to a Payment Hearing* in the court registry and delivers a copy to the debtor. The legal term for this is serving the debtor with the summons.

After they file a Form 12, a creditor cannot take any other steps to collect payment (like garnishing or seizing) until the payment hearing is finished, or they withdraw the summons, or it is cancelled. This rule does not apply if the debtor asked for the payment hearing.

When the debtor receives the summons, they must collect documents that show their financial circumstances. Debtors must bring to a payment hearing records relating to their:

- Income and assets
- Debts
- Details of any assets that have been disposed of since the claim arose
- The means they have now or may have in future to pay the amount owed

On Form 12, a creditor can list specific documents they want the debtor to bring to the hearing. These records might include:

- Copies of recent tax returns and CRA notices of assessment

- Pay stubs or income statements
- Bank account records
- Credit card statements
- Any records showing money owed to other people

It is important for a creditor to request all the financial documents they think may reveal the debtor's real financial circumstances. The judge needs to see these documents to make a fair payment order.

If the debtor does not bring enough information to court, the judge may re-schedule the hearing and order the debtor to produce specific documents or evidence for the next hearing. In that case, the judge could order the debtor to pay the creditor's expenses for attending court.

The debtor should send the creditor copies of their financial documents well before the hearing. The creditor must have enough time to review the information and prepare questions they want to ask at the hearing.

When a debtor requests a payment hearing

To request a payment hearing, a debtor files a Form 13 *Notice of a Payment Hearing* in the court registry and delivers it to the creditor. The debtor should bring to the payment hearing financial documents showing their financial circumstances, including records relating to their:

- Income and assets
- Debts
- Details of any assets that have been disposed of since the claim arose
- The means they have now or may have in future to pay the amount owed

The debtor should give the creditor copies of their financial documents well before the hearing.

The creditor must have enough time to review the information and prepare questions.

At the hearing

The hearing may be conducted by a judge or a judicial justice.

A debtor should bring three copies of their financial documents to court, one for themselves, one for the creditor and one for the judge. Either side can suggest a payment schedule before the hearing. If they agree, the judge or judicial justice can make an order without hearing any evidence.

If the parties do not agree on a payment schedule, there will be a hearing. When their names are called, the creditor and debtor should stand in front of the judge and state their names and pronouns. The creditor should tell the judge the current amount the debtor owes and what payments they have made so far.

The debtor will have a chance to testify about their ability to pay. They will need to:

- Describe their financial circumstances to explain why they cannot pay the full amount immediately
- Explain the financial documents they have brought
- Provide evidence (receipts, cancelled cheques) of any payments they have made
- Propose a schedule for payments

A debtor needs to remember that an order has already been made that they owe the money. The only purpose of the payment hearing is to consider a payment schedule.

The payment hearing is not an opportunity to re-open the trial or to argue that the debtor should not have to pay anything at all.

The creditor will be given a chance to question the debtor, and the judge may have questions. The creditor's questions should focus on the debtor's ability to pay the money as soon as possible.

After the debtor has testified, both parties will have a chance to sum up, and tell the judge what order they think the evidence justifies. A debtor has the burden of satisfying the judge that the full amount owed cannot be paid immediately. If they fail to prove this, for example by not providing clear evidence about their current financial situation, then the judge is likely to order immediate payment.

After hearing the evidence and their submissions, the judge may order a payment schedule that is fair to both parties.

Changing or cancelling a payment schedule

Where a judge has already ordered a payment schedule, *Small Claims Rule 17(3)* allows either party to apply to change or cancel the terms of the payment schedule. To do this, file a Form 19 *Application to a Judge* in the court registry and deliver it to the other party.

Default hearings

If a debtor fails to make the payments required by a payment order or payment schedule, then the creditor may request a default hearing.

Default hearings explained

At a default hearing, the judge hears why the debtor has not made payments and decides what the consequences should be.

A creditor can bring a case back to court for a default hearing if a debtor has not made the payments ordered in a payment schedule after any of the following:

- A small claims settlement conference, trial, or payment hearing
- A Residential Tenancy Branch decision
- A Civil Resolution Tribunal decision or agreement

Rule 13 of the *Small Claims Rules* is about default hearings.

[Small Claims Rule 13](#)

How the creditor asks for a default hearing

To ask for a default hearing, a creditor files a Form 14 *Summons to a Default Hearing* in the court registry and delivers it to the debtor. The creditor can list on the *Summons* form the documents they want the debtor to bring to the hearing.

These records may include:

- Copies of recent tax returns and CRA notices of assessment
- Pay stubs or income statements
- Bank account records
- Credit card statements
- Any records showing money owed to other people

It is important for a creditor to request all the financial documents they think may reveal the debtor's real financial circumstances. It is also important for a debtor to provide as much financial information as possible. They need to show why they were not able to make the payments ordered.

The judge needs to see the debtor's financial documents to make a fair order. If a debtor does not bring enough information to court, then the judge may re-schedule the hearing for another day and order them to bring specific evidence or documents for the next hearing.

The debtor should give a copy of their financial documents to the creditor far enough before the hearing for the creditor to review them. Then the creditor can prepare questions to ask the debtor at the hearing, and they can discuss whether they can agree on a revised payment schedule that the judge could order without hearing any evidence.

What happens at the default hearing

When their names are called, the creditor and debtor should go to the front of the courtroom and state their names and pronouns. If they have not reached an agreement, the creditor should tell the judge:

- The terms of the payment schedule

- What payments have not been made

- What amount is still owed

The creditor will have a chance to question the debtor about their financial circumstances and why they did not obey the payment schedule.

The debtor should make sure they have three copies of their financial documents, one for themselves, one for the creditor, and one for the judge. They need to provide evidence of any payments made to the creditor. The debtor should also tell the judge what efforts they made to follow the payment schedule and why those efforts failed. The debtor should also explain any change in their financial situation that prevented them from making payments.

A debtor needs to satisfy the judge they made all reasonable efforts but were not able to pay due to some change that was beyond their control. After the debtor testifies and the creditor questions them, both parties will have a chance to sum up and tell the judge what order they think the evidence justifies.

What the judge can do at the end of a default hearing

At the completion of a default hearing, the judge may do any of the following:

- Confirm the terms of the existing payment schedule

- Change the payment schedule

- Make any other order the judge thinks is fair to the debtor and creditor

The judge may also imprison a debtor for up to 20 days if the debtor has not obeyed a payment schedule and the judge considers their explanation, or failure to give an explanation, to be contempt of court. Imprisonment does not cancel the amount owed.

Garnishing wages or bank accounts

Garnishment is another enforcement tool. Garnishment means taking money owed to a debtor from whoever owes them the money. Most often, people garnish wages or bank accounts.

There are very strict rules to follow to garnish wages or a bank account.

[Garnishment \(Government of BC\)](#)

[Garnishing and Seizing \(Small Claims BC\)](#)

Seizure and sale of goods

If the debtor has not paid, the creditor can also ask the court bailiff to take personal possessions belonging to the debtor and sell them at a public auction.

This can be a costly procedure. The creditor should ensure that the debtor has goods that are worth enough money to cover the costs.

[Seizure and sale of the debtor's goods \(Government of BC\)](#)

[Garnishing and Seizing \(Small Claims BC\)](#)

Registration against land

If the debtor has not paid and owns land in BC, the creditor can register a certificate of judgment in the land title office.

The debtor cannot normally sell or mortgage the land until the debt is paid. Registration against land is also one of the simpler and less costly enforcement tools.

If the creditor does not know whether the debtor owns land, they can request searches of land title records, including a name search, either in person at a land title office, online, or by mail. There is a fee for this service.

[BC Land Title & Survey](#)

[Registration against land \(Government of BC\)](#)

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