

When Restitution

IS NOT PAID

►► *Tips to help you get the restitution you are entitled to*



When Restitution Is Not Paid

Tips to help you get the restitution you are entitled to

Restitution is designed to compensate victims of crime for their losses and damages. If you are the victim of a crime, the court has the authority to order convicted offenders to pay restitution to victims as part of their sentence. But what happens if the offender fails to pay the restitution? What can you do about it?

The following information, in question-and-answer format, is provided to help victims of crime get the restitution owed to them. It outlines some actions that victims can take against an offender if the offender fails to make a payment or pay the full amount by the due date.

What if an offender does not pay the restitution that has been ordered?

You can file a certified copy of the Restitution Order as a civil judgment with the Court of Queen's Bench, at no cost to you.

If you do not receive a certified copy of the Restitution Order after 60 days of a payment being missed, call 204-945-3919 in Winnipeg. If you live outside of Winnipeg, contact your local court centre.

What does filing a civil judgment do?

When you file a civil judgment with the court, the information could be accessed by credit bureaus across Canada. This could affect the offender's credit rating, lowering their chances of getting loans or credit. Filing a civil judgment will also allow you to take further action against the offender for the amount you are owed.

What further action will a civil judgment allow me to take?

The most frequently used are:

- Garnishment Orders
- Writs of Seizure and Sale
- Registrations Against Land

What is a Garnishment Order?

It is an order that allows you to legally seize the offender's wages, bank accounts and other sources of income. A garnishment of wages is valid for a year. A garnishment of a bank account takes effect and expires on the day it is served on the bank. If you choose this option, you will need to know where the offender works, where they have a bank account or their other sources of income.

How do I obtain a Garnishment Order?

You must complete forms package 60E.1- Notice of Garnishment (to enforce a restitution order) and file the forms at your local court centre with the Court of Queen's Bench. Then you need to serve the parties involved. There are no fees for filing a garnishment order related to restitution.

How do I know if the Garnishment Order was successful?

To find out if money has been paid to the court, contact the Court of Queen's Bench at your local court centre.

Once the money has been paid to the court, you can request it by filing an Affidavit in Support of Payment Out of Court – Notice of Garnishment form and a Requisition for Cheque form at your local court centre with the Court of Queen's Bench.

What is a Writ of Seizure and Sale?

A Writ of Seizure and Sale directs a sheriff to seize and sell an offender's assets. The offender will either have to pay what they owe you or if the sheriff is able to seize the offender's assets, the assets can be sold at a public auction to recover what you are owed. The Writ expires two years from the date it is issued. If you choose this option, you will need to know information about the offender and their assets.

How do I obtain a Writ of Seizure and Sale?

You need to complete forms package 60A – Writ of Seizure and Sale and file the forms at your local court centre with the Court of Queen's Bench. Then, you need to deliver two copies to your local Sheriff's Office. There are no fees for filing a Writ of Seizure and Sale.

There is a cost to you to have the sheriff execute the Writ. The sheriff may be able to recover the cost from the offender or from the sale of the offender's property.

How do I know if my Writ of Seizure and Sale was successful?

To find out if the money has been collected, contact your local Sheriff's Office. Any money collected will be paid to you.

What is a Registration Against Land?

A Registration Against Land allows you to create a lien against any real property (land) owned by an offender. Placing a lien should prevent the offender from selling or refinancing the property.

How do I obtain a Registration Against Land?

You need to complete a Certificate of Judgment form in duplicate and form 4E Requisition (Civil Division), and file the forms at your local court centre with the Court of Queen's Bench, at no cost. Then, you need to file these forms with your local Land Titles Office.

How do I know if my Registration Against Land was successful?

If your Registration Against Land was successful, the Certificate of Judgment will be entered by the Land Titles Office, creating a lien against the offender's land title. If the offender wants to remove the lien, he/she will need to arrange payment with you directly. The Land Titles Office will need your contact information.

Note: All forms and forms packages are available at your local court centre, with the Court of Queen's Bench, for a fee, or can be found on line at no cost.

Forms and further information are available at: <https://www.gov.mb.ca/justice/crown/victims/restitution.html>. This includes Court Centre locations, Sheriff's Office locations and related legislation.

These actions do not guarantee you will receive the money that is owed to you. If you need more assistance in taking further action against the offender, you may contact a lawyer or collection agency.