

Appendix H

Application for a Declaration Member is Disqualified

This is only a sample to provide the relevant legislation under which such an application would be filed in court and who may file. The court will require the applicant(s) to use their prescribed form 14B Notice of Application to fill in the required information.

THE KING’S BENCH

(Location of Court House) Centre

BETWEEN:

[Name council or four or more voters]

applicant,

- and -

[Name council member]

respondent,

NOTICE OF APPLICATION

TO THE RESPONDENT:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing before a judge, on _____
(day)

_____, at _____, at _____.
(date) (time) (address of court house)

IF YOU WISH TO OPPOSE THIS APPLICATION, you or a Manitoba lawyer acting for you must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must serve a copy of the evidence on the applicant’s lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 p.m. on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date

Issued _____
Deputy Registrar

To: *(Name and address of each defendant)*

APPLICATION

1. The applicant makes application for: *(State the precise relief claimed.)*

a declaration that alleges a member is disqualified under section 86(1)(insert specific clause) of The Northern Affairs Act (insert council member's name) for the Community Council of _____, with respect to an election held on _____ (date).

2. The grounds for the application are: *(Specify the grounds to be argued, including a reference to any statutory provision or rule to be relied on.)*

pursuant to subsection 119(1) of the Community Councils Election regulation, whereby the applicant claims: *(state reasons for the claim)*

3. The following documentary evidence will be used at the hearing of the application:

(List the affidavits or other documentary evidence to be relied on.)

(NOTE: Where the notice of application is to be served outside Manitoba without a court order, state the facts and the specific provisions of Rule 17 relied on in support of such service.)

Date of issue

(Name, address, and telephone number of party filing)