

SMALL CLAIMS COURTS

Why go through expensive courts when you can institute minor civil claims in a speedy, affordable and simple way without high costs for lawyers?

That is the questions that came to mind after witnessing more than five claims resolved within minutes at the Small Claims Court in Hillbrow on Tuesday, 12 October.

One of the claims we witnessed was that of Mandla (not real name) who did not see eye to eye with his landlord. Mandla moved into his landlord's cottage with an agreement to stay for the year and paid the deposit of R4200. But within a short time he realised that he could not afford to stay in his new place and moved out with a promise to get someone to move in and get his deposit back.

He did get two people - student friends - who moved in but still he did not get his deposit as agreed because one of the new tenants failed to pay her deposit and immediately moved out. He then approached the court to try and get his deposit.

The court found that he could not claim his full deposit since there was a shortfall with one of his replacements not paying both the deposit and the rent. But the court convinced the landlord to pay him half of what is due since the other tenant is paying well, and until they find the defaulting tenant to pay, the plaintiff can get his full deposit back.

Both parties walked out happy with the decision.

That is the nature of the Small Claims Court, people come in as sworn enemies and walk out with a good understanding of each other.

Donal Makhari, an Area Claims Court Manager, said if your claim is less than R15 000, Small Claims Court is the right place to visit.

"We get attorneys who come and be Commissioners on voluntary bases in resolving the disputes and people get their claims resolved for free without paying exorbitant fees for legal representatives," he said.

Joel Stone encouraged people with small claims to make use of these courts as they have helped a lot of people who could not have managed to afford lawyers to fight for them.

"Small Claims Court does not just focus on law, but more about fairness and equity. The law forces you to honour your contracts, which here we are more about finding common ground and make both parties satisfied," he said.

MATTERS THAT CAN BE TAKEN TO THE SMALL CLAIMS COURTS

- Small claims courts offer a quicker and easier way of resolving disputes that involve amounts limited to R15 000.
- You do not need a lawyer to represent you at a small claims court.
- All official languages may be used in a small claims court.



REPAYMENT OF MONIES LENT

If someone owes you money and they refuse to pay you at the agreed time, you may take the matter to the small claims court.



CLAIMING GOODS THAT ARE DUE TO YOU

If someone has bought goods such as furniture from you and they have failed to pay for it, you can take the matter to the small claims court, provided that the value of the goods does not exceed R15 000.



CLAIMING MONIES OWED

If you have rented out a house or any other property to a person (tenant) and the tenant does not pay the agreed rental at the right time, you may take the matter to the small claims court.



ENFORCING A CLAIM BASED ON A LEGAL DOCUMENT

If you have a document that proves that you should receive money from someone, such as a cheque, an acknowledgement of debt or promissory note, you can approach a small claims court to enforce this agreement.



CLAIMING DAMAGES

If you are involved in an accident and you can produce proof that the other driver was at fault, you can take the matter to a small claims court. Note, however, the value of the claim must be within the R15 000 limit.



CLAIMS BASED ON CREDIT AGREEMENTS

If you have a business that lends people money on credit and your creditor/s are not paying the agreed instalments, you can take the matter to a small claims court.



CLAIMS THAT ARE EXCLUDED FROM SMALL CLAIMS COURTS

You cannot bring forward claims that:

- go against a judgement or order of a court.
- are more than R15 000.
- are against the State, local municipality or local government.
- are for the official cancellation of marriage.
- concerns the validity of a Will.



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA



SMALL CLAIMS COURTS

STEP-BY-STEP GUIDE

Members of the public are hereby reminded to make inputs on the draft guidelines for Commissioners and Clerks of the Small Claims Courts. Interested parties or individuals may access the guidelines on the departmental website and submit their inputs to:

Adv. Pieter A Du Rand
Chief Director: Court Services

Street Address: West Tower, Room 8.03, Momentum City Walk, 329 Pretorius Street, Pretoria, RSA

Postal Address: Private Bag X 81, Pretoria, 0001, RSA

Tel: (012) 315 1219,

Fax: (012) 315 1888

Email: pdurand@justice.gov.za

1 CONTACT THE PERSON WHOM YOU HAVE A DISPUTE WITH



Contact the person with whom you have a dispute in person, in writing or telephonically and ask them to settle your claim.

2 WRITE A LETTER TO THE PERSON WHO OWES YOU



If the person who, for example; owes you money refuses to pay, they should then be sent a letter of demand which indicates all the facts and the specific amount you are claiming. The letter must be delivered in person or by registered mail (the Post Office can assist). Once the person receives the letter, they are given 14 days within which to settle your claim.

3 GO TO THE CLERK OF THE COURT



If the person owing your money has not paid the claim in 14 days, go to the small claims court with:

- a copy of the letter of demand.
- any contract or agreement between you and the person which proves the claim
- a post slip or any other document that proves that the letter of demand was handed to the person.
- The person's personal and contact details.

The clerk of the court will prepare a summons which will force the person to come to court at the set date. The summons will be delivered by you or the sheriff of the court. Please always remember the date and time during which your case will be heard.

4 COURT DATE



On the day of the court hearing, you must bring proof that the summons was delivered to the person you are claiming from. The court procedure is informal and not complicated. You will be expected to tell your story and answer questions from the commissioner of the small claims court.

5 PAYMENT



If judgment is given in your favour, the person must pay the money immediately and will be issued a receipt. If they are not able to pay, the court will investigate their financial position and determine a payment plan.

6 FAILURE TO COMPLY



If the person does not settle the dispute as agreed, the matter will be referred to the magistrate's court.