

# SUMMARY JUDGMENT

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### 24.1 Scope of this Part

This Part sets out a procedure by which the court may decide a claim or a particular issue without a trial.

(Part 53 makes special provision about summary disposal of defamation claims in accordance with the Defamation Act 1996)<sup>1</sup>

### 24.2 Grounds for summary judgment

The court may give summary judgment against a claimant or defendant on the whole of a claim or on a particular issue if –

- (a) it considers that –
  - (i) that claimant has no real prospect of succeeding on the claim or issue; or
  - (ii) that defendant has no real prospect of successfully defending the claim or issue; and
- (b) there is no other compelling reason why the case or issue should be disposed of at a trial.

(Rule 3.4 makes provision for the court to strike out<sup>(GL)</sup> a statement of case or part of a statement of case if it appears that it discloses no reasonable grounds for bringing or defending a claim)

### 24.3 Types of proceedings in which summary judgment is available

- (1) The court may give summary judgment against a claimant in any type of proceedings.
- (2) The court may give summary judgment against a defendant in any type of proceedings except –
  - (a) proceedings for possession of residential premises against –
    - (i) a mortgagor; or
    - (ii) a tenant or a person holding over after the end of his tenancy whose occupancy is protected within the meaning of the Rent Act 1977<sup>2</sup> or the Housing Act 1988<sup>3</sup> and;
  - (b) proceedings for an admiralty claim in rem.

<sup>1</sup> 1196c.31.

<sup>2</sup> 1977 c.42.

<sup>3</sup> 1988 c.50.

- (c) Omitted

#### **24.4 Procedure**

- (1) A claimant may not apply for summary judgment until the defendant against whom the application is made has filed –
- (a) an acknowledgement of service; or
  - (b) a defence,  
unless –
    - (i) the court gives permission; or
    - (ii) a practice direction provides otherwise.

(Rule 10.3 sets out the period for filing an acknowledgment of service and rule 15.4 the period for filing a defence)

- (1A) In civil proceedings against the Crown, as defined in rule 66.1(2), a claimant may not apply for summary judgment until after expiry of the period for filing a defence specified in rule 15.4.
- (2) If a claimant applies for summary judgment before a defendant against whom the application is made has filed a defence, that defendant need not file a defence before the hearing.
- (3) Where a summary judgment hearing is fixed, the respondent (or the parties where the hearing is fixed of the court's own initiative) must be given at least 14 days' notice of –
- (a) the date fixed for the hearing; and
  - (b) the issues which it is proposed that the court will decide at the hearing.
- (4) A practice direction may provide for a different period of notice to be given.

(Part 23 contains the general rules about how to make an application)

(Rule 3.3 applies where the court exercises its powers of its own initiative)

#### **24.5 Evidence for the purposes of a summary judgment hearing**

- (1) If the respondent to an application for summary judgment wishes to rely on written evidence at the hearing, he must –
- (a) file the written evidence; and
  - (b) serve copies on every other party to the application,  
at least 7 days before the summary judgment hearing.
- (2) If the applicant wishes to rely on written evidence in reply, he must –
- (a) file the written evidence; and
  - (b) serve a copy on the respondent,  
at least 3 days before the summary judgment hearing.
- (3) Where a summary judgment hearing is fixed by the court of its own initiative –
- (a) any party who wishes to rely on written evidence at the hearing must –
    - (i) file the written evidence; and
    - (ii) unless the court orders otherwise, serve copies on every other party to the proceedings,  
at least 7 days before the date of the hearing;
  - (b) any party who wishes to rely on written evidence at the hearing in reply to any other party's written evidence must –
    - (i) file the written evidence in reply; and
    - (ii) unless the court orders otherwise serve copies on every other party to the proceedings,

at least 3 days before the date of the hearing.

- (4) This rule does not require written evidence –
- (a) to be filed if it has already been filed; or
  - (b) to be served on a party on whom it has already been served.

#### **24.6 Court's powers when it determines a summary judgment application**

When the court determines a summary judgment application it may –

- (a) give directions as to the filing and service of a defence;
- (b) give further directions about the management of the case.

(Rule 3.1(3) provides that the court may attach conditions when it makes an order)

