

What happens if a defendant does not pay a judgment sum in Manitoba?

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When a court orders someone who owes you money to pay, it can feel like the hard part is over. You've gone through the court process, obtained judgment, and expect payment to follow. But a judgment is often just the beginning of another phase known as the "collection process."

So, what happens if a defendant refuses or cannot pay a judgment debt?

The short answer: nothing is automatic and payment is not guaranteed. A judgment does not enforce itself. The judgment means that the court has confirmed that money is owed but it is up to the successful party, the creditor, to take steps to collect.

One of the most common ways to collect a judgment debt is through a garnishment. If the debtor is employed or has money in a bank account, you may be able to garnish those funds from the debtor's account or wages. For many creditors, this is the most effective way because it targets money at the source.

If the debtor owns property, there are additional options. A judgment can be registered against their land, creating a lien. Though this may not result in immediate payment, but the debtor will be required to deal with the registration when selling or refinancing their property. It can prevent the debtor from selling or refinancing their property without dealing with the debt.

But what if you don't know where the debtor works or where they bank? That's where an examination in aid of execution can really help. The process allows you to require the debtor to answer questions under oath about their finances, what they earn, what they own, and where they work or keep their money.

In addition, a writ of seizure and sale can be issued. This process allows the sheriff to seize and sell certain assets, including personal property or land, to satisfy the debt. It is a stronger enforcement step but also requires careful consideration of cost and practicality.

A debtor cannot be jailed for failing to pay a civil judgment. The law offers ways to enforce payment, but these options are focused on recovering money, not on punishing the debtor.

Meanwhile, the debt does not stand still. Interest continues to accrue, and the existence of a judgment can affect the debtor's credit, making it harder for them to borrow or access financing. Over time, this pressure can encourage payment, even if it doesn't happen immediately.

It is important to keep in mind that if a debtor has no money and no assets, you may never collect on your judgment. However, in Manitoba, new judgments do not expire. Older judgments, from prior to 2013, may expire if they were not renewed in accordance with the old legislation.

While the process can take time, the law offers several tools to help ensure that a judgment is not just a document, but a right that can be acted on and enforced.

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