

PART 8: EXPEDITED PROCEDURE

What this Part is about: This Part describes the abbreviated pre-trial procedures available if the trial of the action will be 3 days or less, and the action otherwise meets the requirements set out in rule 8-2.

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PART 8: EXPEDITED PROCEDURE

Application of other rules

8-1 The rules that apply to an action apply to an action pursuant to this Part, unless this Part provides otherwise.

When Part applies

8-2(1) Subject to subrules (2) and (3) and unless the Court orders otherwise, the expedited procedure in this Part applies to an action if:

- (a) the only claims in the action are for one or more of money, land, a builder's lien and personal property and the total of the following amounts is \$100,000 or less, exclusive of interest and costs:
 - (i) the amount of any money claimed in the action by the plaintiff for pecuniary loss;
 - (ii) the amount of any money to be claimed in the action by the plaintiff for non-pecuniary loss;
 - (iii) the fair market value, as at the date the action is commenced, of:
 - (A) all land and all interests in land claimed in the action by the plaintiff; and
 - (B) all personal property and all interests in personal property claimed in the action by the plaintiff;
 - (b) the parties to the action consent; or
 - (c) the Court, on its own motion or on the application of any party, so orders.
- (2) The expedited procedure in this Part applies to an action only if the trial of the action can be completed within 3 days.
- (3) The expedited procedure in this Part does not apply to:
- (a) family law proceedings, other than a family property action in which the only remedy claimed is a division of family property;
 - (b) class actions; or
 - (c) actions when the trial is before a jury.
- (4) If there are 2 or more plaintiffs, the expedited procedure set out in this Part applies to an action pursuant to clause (1)(a) if the plaintiffs' claims, considered together, meet the requirements of that clause.
- (5) If there are 2 or more defendants, the expedited procedure set out in this Part applies to an action pursuant to clause (1)(a) if the plaintiff's claim against each defendant, considered separately, meets the requirements of that clause.

Subsequent filings

8-3 If this Part applies to an action:

- (a) any party may file a notice of expedited procedure in Form 8-3; and
- (b) the words “Subject to Part 8 Expedited Procedure” must be added to the style of cause, immediately below the listed parties, for all documents filed after:
 - (i) the notice of expedited procedure is filed pursuant to clause (a); or
 - (ii) the Court order is made pursuant to clause 8-2(1)(c).

Judgment not limited

8-4 Nothing in this Part prevents the Court from awarding a judgment to a plaintiff in an expedited procedure action for an amount in excess of \$100,000.

When Part ceases to apply

8-5(1) This Part ceases to apply to an expedited procedure action if the Court, on its own motion or on the application of any party, so orders.

(2) If the Court makes an order pursuant to subrule (1) that this Part ceases to apply to an action, the words “Commenced in Part 8 Expedited Procedure and continued in the general procedure” must be added to the style of cause, immediately below the listed parties, for all documents filed after the order is made.

Bringing an application

8-6(1) Subject to subrule (2), a party to an expedited procedure action shall not serve a notice of application on another party unless a pre-trial conference has been conducted in relation to the action.

(2) Subrule (1) does not apply to:

- (a) an application made for an order pursuant to rule 8-5 that this Part cease to apply to the action;
- (b) an application made to obtain leave to bring an application referred to in subrule (3);
- (c) an application made pursuant to Division 2 or Division 3 of Part 7;
- (d) an application made pursuant to Subdivision 3 of Division 1 of Part 6;
- (e) an application made to add, remove or substitute a party; or
- (f) an application made by consent.

(3) On application by a party, a judge may relieve a party from the requirements of subrule (1) if:

- (a) it is impracticable or unfair to require the party to comply with the requirement of subrule (1); or
- (b) the application mentioned in subrule (1) is urgent.

Oral questioning

8-7 Unless the Court orders otherwise, in an expedited procedure action the questioning of any person who can be questioned pursuant to Subdivision 3 of Division 2 of Part 5 by all parties who are adverse in interest must not, in total, exceed in duration:

- (a) 2 hours; or
- (b) any greater period to which the person being examined consents.

Information Note

Refer to Subdivision 2 of Division 2 of Part 5 for rules regarding the timing of exchange and content of Affidavits of Documents.

Pre-trial conference

8-8(1) A joint request for pre-trial conference in an expedited procedure action must be filed not more than one year after the date of service of the statement of claim on all defendants.

(2) If one of the parties refuses to join in a joint request for pre-trial conference, the party wishing to obtain a pre-trial conference in an expedited procedure action may follow the procedures set out in rule 4-11 to obtain a pre-trial conference without consent.

(3) A pre-trial brief filed pursuant to this Part must not exceed 8 pages in length.

(4) The 8-page limit mentioned in subrule (3) does not include any documents intended to be used at trial or authorities relied on.

(5) The rules pursuant to Subdivision 2 of Division 3 of Part 4 relating to a pre-trial conference apply, with any necessary modification, as required by the rules of this Part.

If trial will require more than 3 days

8-9 If, as a result of the pre-trial conference in an expedited procedure action, the pre-trial conference judge considers that the trial will likely require more than 3 days:

- (a) the pre-trial conference judge may adjourn the trial to a date to be fixed as if the action were not subject to this Part; and
- (b) the pre-trial conference judge is not seized of the action.

Affidavit evidence at trial

8-10 If all parties consent, uncontested evidence may be submitted by affidavit at trial in an expedited procedure action.

Information Note

The rules regarding the form and content of affidavits are found in Subdivision 2 of Division 4 of Part 13.

Costs

8-11(1) Unless the Court orders otherwise or the parties consent, the amount of costs, exclusive of disbursements, to which a successful party to an expedited procedure action is entitled is as follows:

- (a) if the time spent on the hearing of the trial is 1 day or less, \$5,000;
 - (b) if the time spent on the hearing of the trial is 2 days or less but more than 1 day, \$6,000;
 - (c) if the time spent on the hearing of the trial is more than 2 days, \$7,000.
- (2) If the time spent on the hearing of the trial is more than the 3 days permitted pursuant to subrule 8-2(2), the amount of costs for the additional days are in the discretion of the trial judge.
- (3) For the purposes of subrule (2), a trial judge may consider the relative responsibility of the parties for the time spent on the hearing of the trial that exceeds 3 days.

Settlement offers

8-12 In exercising its discretion pursuant to rule 8-11, the Court may consider a formal offer to settle pursuant to Division 5 of Part 4.

Taxes to be added to costs

- 8-13(1)** If tax is payable by a party to an expedited procedure action with respect to legal services, an additional amount to compensate for that tax must be added to the costs to which the party is entitled pursuant to rule 8-11.
- (2) The additional amount mentioned in subrule (1) must be determined by multiplying the amount of costs to which the party is entitled pursuant to rule 8-11 by the percentage rate of the tax.