

Wage Garnishments: Act Fast & Diligently



6 grounds for disputing wage garnishment, 7 interesting facts and one sample note of dispute

Wage garnishments can be a legitimate way for a creditor to obtain money owed by a debtor. Creditors often include the Canadian Revenue Agency (CRA), a lending institution, a credit card company, a spouse or even a minor child. The process for obtaining wage garnishments is almost always odious. If you have received an order to garnish an employee's wages, chances are you are dealing with the potential embarrassment of your employee, and a potential headache for your organization.

A court order (or notice from CRA) to garnish the wages of an employee will refer to you as "the garnishee". As the garnishee you will have to take steps to verify the order, ensure that the person is still in your employee, calculate the amount you must garnish and then provide that money to the courts (or CRA). The process can be a lot of work, but it is important that you take quick and precise action or your company could easily wind up owing money. In most jurisdictions, the orders are time sensitive. You must remit the amount required within a few days of receiving the order for the current or next pay period for your employee (or independent contractor)

Letter of Dispute or Dispute Note

If you receive an order and believe there has been an error, you may be able to file a 'Letter of Dispute' or 'Dispute Note' with the courts.

Potential reasons you may file a dispute include:

1. The name of your business is incorrect in the order
2. The payor (the employee) has never worked for you
3. The payor (the employee) has stopped working for you on (date)
4. You have already paid the payor money in full on (date)
5. You owe or will owe money to the payor but cannot be intercepted by garnishment for the following reasons _____
6. Or other grounds you may be aware of

This dispute letter can be informal (verify this is still the case in your jurisdiction, some jurisdictions will provide you with a form you can use). This letter should reference the order in detail and a statement of why you believe the order is in dispute. Here is a sample of what your letter of dispute could look like:

Date Court File Number or Reference Number**Court Name**

Contact information for the court

Your Business Name

Your full business name

Full contact information including address, city, province, postal code and telephone number and email address

Lawyers Name

Lawyers name and address if relevant (it is not required to have or use a lawyer for a dispute)

DISPUTE NOTE**Re: Garnishment Order**

We are the Garnishee in case #. We believe we are not legally required to pay the amount indicated in the order. This is based on the following reason(s) _____

We are making a request for a garnishment hearing in which the court can rule on this dispute.

Name

Signature

Date of Signature

This sample letter is not intended as legal advice. As always when ever you are involved in a legal dispute we recommend you consult with an attorney if you have any questions or concerns.

Again, keep in mind that you must act quickly because you will be expected to remit the money owed quickly

Information you may not know about wage garnishment in Canada

1. A **court order is required** (resulting from the filing of a lawsuit) to obtain a wage garnishment in almost cases, the exception is CRA (Canadian Revenue Agency) and in some cases an employee can assign a labour union to garnish wages.
2. Intercepted or garnished wages are **paid to the court** who hold and then distribute the money to creditors. However, it is important to keep in mind that if your employee owes multiple creditors you may have to determine which court order needs to be paid first. Just because you are paying the court does not mean the money is being distributed in the order required: Order of priority is
 - CRA orders for unpaid taxes
 - Family support and maintenance orders are next in line
 - Two court orders from courts of different levels (e.g., small claims vs. appeals court), priority goes to the order you got first rather than which court is higher
3. You may receive garnishment orders pertaining to both employees and independent contractors.
4. If you **ignore the court order** to garnish wages and pay your employee you may be **required to pay twice**, as you may still have to pay the court as ordered. If **you fail to pay or pay the wrong creditor, you may be responsible** for the amount owing to another creditor.

5. You may be required to **provide the court with personal information** about your employee including address and contact information **even without the employee's permission** despite privacy laws in your jurisdiction.
6. In most jurisdictions, garnishing orders are **specific to each pay period** and not ongoing. For example, in many jurisdictions, an employer must receive garnishment orders for every pay period. Exceptions: Spousal or child support through the Family Maintenance Enforcement Program orders; CRA (Canadian Revenue Agency) can obtain orders for 90 days.
7. You **cannot fire an employee** to avoid paying wage garnishments or because an employee has wages garnished.