



Executing a Decision of the Tribunal

Executing or contesting a decision

Further to an application to the Régie du logement, a hearing was held and you received a decision. The decision either dismisses the application or allows it in whole or in part.

The **applicant** has two choices:

- (a) accept the decision as is, with a view to its **execution**;
- (b) **contest** the decision because he or she is dissatisfied with it.

The **defendant** also has two options:

- (a) freely accept the decision and execute it voluntarily;
- (b) **contest** the decision because he or she is dissatisfied with it.

If you are interested in **executing** the decision, read on. If you want information about **contesting** it, obtain the leaflet entitled *Contesting a decision of the tribunal*.

Executing a decision

If the defendant refuses to comply with the decision voluntarily, or all negotiations with a view to executing the decision fail, the applicant must take steps to force the defendant to comply with the decision.

Before proceeding with the compulsory execution of a decision, it is sometimes preferable to find common ground.

When does a decision become executory?

First, it must be determined whether the decision indicates a specific deadline for

its execution. For example, in the case of major repairs, eviction from the premises or exceptional urgency, a commissioner may, if he or she finds it expedient, order the provisional execution of the decision, in whole or in part, or order its execution by a specific deadline.

If the decision does not indicate a specific deadline for its execution, the deadline depends on the type of application.

Execution deadlines (as of the date on which the decision is signed)	
TYPE OF APPLICATION	EXECUTION DEADLINES
Alienation of an immovable situated in a housing complex	Immediate execution
Conversion of a rental residential immovable to divided co-ownership	Immediate execution
Demolition of a dwelling	Immediate execution
Authorization to deposit the rent	Immediate execution
Review of a decision for the fixing of rent	10 days
Application the sole object of which is a claim of \$7000 or less	20 days
Application the sole object of which is the fixing of rent	1 month
All other applications	30 days

IMPORTANT

The contents of this leaflet are for information purposes only and do not replace the legislation.

The staff at the Régie du logement can inform you of the recourse available to you for contesting a decision, the applicable procedure before the Régie and the deadlines involved. However, our staff cannot inform you of the procedures applicable before the other tribunals. If you need assistance, contact an attorney or notary.

It is important to note that, as with any other judgment, a decision by the Régie must be executed within **10 years** of the date on which it is rendered. The creditor's right is prescribed (extinguished) if that time is allowed to lapse.

Procedure for executing a decision

Before initiating the procedure for executing a decision ordering a debtor to pay a sum of money, and to avoid unnecessary fees and steps, an applicant-creditor should have some basic information about the debtor, such as the debtor's sources of income, the type of property in the debtor's possession and whether it is worth seizing.

If the creditor is a **legal person** (e.g. a company), the procedure for executing the decision can be implemented by a director, an officer, an employee exclusively employed by it, or an attorney.

If the creditor is a **natural person**, the mandate to execute the decision can be given to an attorney or the creditor can proceed on his or her own. Here's how.

A three-step procedure :

- Preparation of the writ of eviction
 - Issue of the writ
 - Execution of the writ
- **Preparation** – Obtain the execution form corresponding to the method of execution you plan to use from the office of the Court of Québec for the area where the dwelling is located.

Fill out the form and return it to the office of the Court, along with a certified true copy of the Régie du logement's decision.

- **Issue** – Once the decision has been registered and the required verifications have been made, the court clerk will issue a writ of execution, which is a formal order from the Court. Contact the Court office for information on the fee payable.
- **Execution** – You must now give the writ of execution to a bailiff. The execution may involve the debtor's movable or immovable property. The fee charged varies with the method of execution chosen.

Small claims (20-day execution deadline)

A small claim is an application **the sole object of which** is to recover **\$7000** or less. For example, a claim for \$5000 in unpaid rent is a small claim, whereas an application to resiliate a lease **accompanied** by a claim for the recovery of \$5000 in unpaid rent is not.

In the case of a small claim before the Régie du logement, the procedure is the same as that described on the preceding pages, apart from the differences below:

- The applicant may have a bailiff or an attorney execute a decision rendered in his or her favour. If the applicant is a natural person, he or she may also call on the services of the clerk of the court, or the person designated by the Minister.
- The fees paid to the clerk or the person designated by the Minister, or the fees of the bailiff or attorney paid by the applicant, for the execution of the decision may be claimed from the debtor, within the limits set out in tariffs prescribed for that purpose; the claim is payable immediately by the debtor at the time of execution.

Most common methods of execution

SEIZURE BY GARNISHMENT OF A SUM OF MONEY

- **Salaries or wages**
For this method of execution, the name and full address of the

employer of the party against whom a decision was rendered is required. However, the full salary cannot be seized from the employer; only part of it may be seized and the amount varies according to the debtor's salary and the number of dependants.

- **Accounts in a financial institution**
To seize amounts in the debtor's bank account, the name and full address of the debtor's financial institution must be obtained.
- **Seizure by garnishment of claims**
Any sum owed to the party against whom a decision was rendered may be seized (other than amounts covered by the exceptions or restrictions provided for by law). The names and addresses of the persons who owe the amounts must be provided; the amounts can then be seized directly from the persons concerned.

SEIZURE OF MOVABLE PROPERTY

The debtor's movable property may be seized by a bailiff, who then must sell it by judicial sale. The proceeds from the sale will be used to reimburse the creditor in whole or in part. According to the law, the bailiff must exclude certain items:

- the movable property that furnishes the debtor's main residence, used by and necessary for the life of the household, up to a market value of **\$6000 established by the bailiff**;
- food, fuel, linens and clothing necessary for the life of the household;
- instruments of work needed for the personal exercise of the debtor's professional activity.

Other items which cannot be seized include papers, family portraits, medals and other decorations.

If the debtor has movable property at the residence of another person, the property can be seized at that residence.

Eviction of the lessee and the other occupants: writ of eviction

The owner-creditor uses this writ when a decision orders the eviction of the lessee and all other occupants. Before a writ of

eviction can be executed, **notice of at least two clear juridical days** must be served by the bailiff on the party against whom the decision was rendered.

In all cases, the bailiff is authorized by law to use the force necessary to execute the writ while complying with the required formalities.

Contesting an eviction or seizure

A debtor may contest an eviction or seizure, as the case may be, in order to, for example, have it cancelled or have excluded part of the property the bailiff is preparing to seize. A judge of the Court of Québec will then rule on the merits of the contestation.

Note : When a decision resiliates the lease for non-payment of the rent and if the lessee has paid the rent that is due, the costs and interest before the decision, **the plaintiff cannot undertake the eviction procedure.**

WEB SITE OF THE RÉGIE
<http://www.rdl.gouv.qc.ca>

HOW TO REACH US BY TELEPHONE

From Monday to Friday
Between 8:30 a.m. and 4: 30 p.m.

Montréal, Laval and Longueuil areas :
(514) 873-2245 *

Elsewhere in Quebec :
1-800-683-2245 *

*** An automated information service is available around the clock.**

Please have on hand all necessary documents before making your call.

The Régie du logement is answerable to the Minister of Municipal Affairs, Regions and Land Occupancy.

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