

MMCRC Mandatory Mediation - Subsequent Small Claims Solution

Manufactured & Marina Community Resource Center -MMCRC is not an enforcement agency nor an advocacy agency for tenants or landlords and has no authority to move the mediation process beyond mediation.

Though it may seem a bit overwhelming, on the other hand, any claim made under the Oregon Residential Landlord and Tenant Act is eligible for an award by the court of attorney fees from the loser to the prevailing party. ORS 90.255.

Small Claims are court cases filed to resolve disputes without a lawyer; as a result, there are no prevailing party attorney fee awards. The filing fee paid to the Small Claims Court is about \$60 for claims of \$2,500 or less and \$100 for claims between \$2,500 and \$10,000. Fees are set statewide and change over time; check your county clerk's office. Fees may be less in Justice Court.

The amount claimed (including the value of property) must be \$10,000 or less.

- If you are claiming money and/or property worth more than \$10,000, you cannot file in Small Claims Court; you must file in Civil Circuit Court or see a lawyer for advice.
- Claims for more than \$750 and up to \$10,000 can be filed in either Small Claims Court or Circuit Court. Lawyers can represent you in Circuit Court.
- Claims for \$750 or less must be filed in Small Claims Court. An exception allows these claims to be filed in the Circuit Court if the law you are suing under specifically allows attorney fees to be awarded, such as under the Oregon Residential Landlord and Tenant Act. Talk to a lawyer for more information if you think you are entitled to recover

attorney fees and want to file a claim for \$750 or less in the Circuit Court.

Note that there are Justice Courts in some counties, presided over by Justices of the Peace, who are not required to be lawyers. Justice Courts can handle landlord/tenant cases and small claims cases.

Court staff cannot give legal advice. You may talk to a lawyer at any time for help with your claim, but lawyers are not allowed to participate in Small Claims Court hearings without the judge's permission. The Oregon State Bar's *Lawyer Referral Service can provide a first consultation for \$40. The Lawyer Referral Service can be reached at: 800-452-7636.

What are the factors that might be considered should a tenant want to go to the Circuit Court?

- There is a time factor. Circuit Court cases can take from many months to more than a year to resolve. Small Claims Court cases resolve much quicker, often within two months.
- The stakes of losing in Circuit Court are higher. A tenant can end up with a judgment against them for the landlord's attorney fees in Circuit Court.
- Small Claims Court allows limited time to put on your case, but the rules, for example, the Rules of Evidence, are more relaxed. Circuit Court is very formal.
- Depending on the judge, Small Claims Court (called Justice Court in some counties) can be much more informal.
- Except for Justice Court, there is no record of Small Claims Court decisions and no appeal.

The likelihood of landlords not appearing for mediation is slim; the alternatives are not pleasant or inexpensive.

Each county court may have its own unique forms along with their established fee structure. Timing for filing and claim forms can found by calling the local county court clerk or via web search.