

Know Your Rights!

A MONTHLY NEWSLETTER TO HELP ONTARIO'S CONSUMERS.

Ontario's Limitations Act

A statute of limitations is a law that establishes time limits for the bringing of lawsuits. If a lawsuit is commenced after the expiration of a limitation period the action may not succeed. (Technically, a defendant would have to plead that a matter is statute barred otherwise the right to make such an argument could be lost.)

The purpose of such statutes is to provide some type of closure for prospective defendants. In addition, there is judicial distaste for "stale evidence" and parties that would otherwise "sit on their rights" for an unreasonable amount of time.

In Ontario, the current statute, called the *Limitations Act*, came into effect on January 1, 2004. With it came some significant changes for most matters heard by Ontario's Small Claims Court (ie. debts and contract disputes). Previously, a claimant had up to six years to file an action for most matters. The new act reduces this basic limitation period to two years for claims arising after January 1, 2004. If a matter occurred before that date then the former six year limitation period may still apply.

Limitation periods start to run from the date a claimant became aware of the cause of action or when they ought to have been aware. Thereafter, a claimant has two years to file a lawsuit or risk losing the right to do so.

Notwithstanding these legal starting and ending points the courts have, on occasion, varied them when special circumstances arose (eg. a legal representative neglected to file a claim on time).

In addition, parties may agree to suspend or extend a limitation period by written agreement. And if a third party, such as a mediator, is brought in to attempt resolution then the limitation period does not run until the conclusion of such activity.

Some people erroneously believe that a limitation period continues to run AFTER a lawsuit has been filed. This is not the case. The *Limitations Act* only sets out deadlines for bringing lawsuits. If a lawsuit is filed within a limitation period then the *Limitations Act* is no longer relevant. With that being said, the rules of most courts have deadlines for moving matters forward.

This monthly newsletter is available free of charge by Justice Matters, an Ontario-based paralegal firm, and can be downloaded from our website www.justicematters.ca

DISCLAIMER: While we have done our best to ensure that the information contained herein is accurate please be advised that it is intended as information of a general nature only and it is not a substitute for professional legal advice.

JUSTICE MATTERS

Debt Repayment • Court & Tribunal Proceedings • Dispute Resolution

Ontario Head Office

(905) 275-0168

Toronto Area Office

(416)