

The Parental Responsibility Act

The Parental Responsibility Act:

- holds parents financially responsible for property loss, damage or destruction intentionally caused by their children who are under 18 years of age;
- allows property owners, renters and lessees whose property has been intentionally damaged, destroyed or stolen by minors to bring a claim against the child's parents in the Small Claims Court. As of January 1, 2010, the maximum amount of a claim is \$25,000. This amount includes costs incurred by the victim such as lost wages or profits and car rental costs arising from the property damage or loss; and
- permits victims to use documents under the federal *Young Offenders Act* and *Youth Criminal Justice Act* to help prove their case where the youth has been found guilty of that property offence in youth court.

What's the process for suing under this law in the Small Claims Court?

Victims of property crimes committed by minors follow the standard Small Claims Court process. This process starts by the victim filing a claim for damages against the parent(s) of the child. The parent(s) then have an opportunity to file a defence. This may be followed by a settlement conference. This meeting can help resolve the dispute before a trial.

If the case goes to trial, the victim provides evidence before a Small Claims Court judge to prove his or her case. This evidence may include documentation and/or the testimony of witnesses. Since Small Claims Court is a civil court, police charges or a police report are not required to start or prove the case.

Parents who choose to defend the case would then have an opportunity to show that they exercised reasonable supervision and tried to stop the damage from happening, or to show that their child's act was *not* intentional.

The Small Claims Court judge then makes a decision on the case.

Detailed information about bringing and defending a claim in Small Claims Court can be found in the guides entitled "*What is Small Claims Court?*", "*Guide to Making a Claim,*" and "*Guide to Replying to a Claim.*" To find out where to obtain copies of these guides, refer to the back of this pamphlet.

What are some examples of property loss or damage valued at under \$25,000?

Examples of property crime may include, but are not limited to:

- damage to windows, doors and interiors or exteriors of homes, apartments, cottages or businesses,
- theft of contents such as jewellery, televisions, computers and merchandise,
- damage to automobiles, and
- losses from shoplifting.

How does the law make it easier for victims to sue parents in Small Claims Court?

Previously, most of the onus had been placed on the victims to prove their case in court.

Under the *Parental Responsibility Act*, victims need prove only:

- that the child caused the property damage or loss,
- that the defendant(s) are the parent(s) of the child, and
- the amount of the damage.

The burden then shifts to the young person's parent(s) to establish why they should not be found liable for their children's property offences.

The *Parental Responsibility Act* also helps victims obtain access to documents under the federal *Young Offenders Act* and *Youth Criminal Justice Act* to use in their cases. Where a youth had been found guilty of a property offence in youth court, the *Parental Responsibility Act* has special rules allowing access to proof of guilt. Access to this information is otherwise restricted.

What do parents of minors accused of property damage have to prove in court?

Parents can be held liable for property loss, destruction or damage caused by their children, who are under 18 years of age, unless the parents can prove:

- the loss or damage caused was not intentional; or
- they exercised reasonable supervision of the child and made reasonable efforts to prevent the damage from occurring.

How do judges determine whether the parents exercised reasonable supervision and attempted to prevent the incident?

Judges make decisions case-by-case, based on the case's merits. Under the *Parental Responsibility Act*, judges may consider the following factors:

- the youth's age,
- the youth's prior conduct,
- the potential danger of the activity,
- the youth's mental or physical capacity,
- any psychological disorders affecting the youth,
- whether the youth was under direct supervision of the parent at the time when the damage or loss was caused,
- whether a parent had made reasonable arrangements for supervision,
- whether a parent had sought to improve his/her parenting skills,
- whether a parent had sought professional assistance for the youth, and
- any other factor that the judge believes is relevant to the case.

What happens if the judge makes a decision in favour of the victim?

If the decision of the judge is in favour of the victim, the judgment will state that the victim is entitled to receive a certain sum of money.

Unless there is an appeal, the judgment is the final decision.

What if a parent cannot afford to pay the victim immediately?

The judge may order the parent to make payments to the victim in fixed instalments in cases where the full payment ordered by the court cannot be made immediately.

What happens if the parent does not pay the victim as ordered by the court?

The victim can take the steps needed to enforce an unpaid judgment. Information about the enforcement process is set out in the Small Claims Court guide called "*After Judgment – Guide to Getting Results.*"

The *Parental Responsibility Act* provides victims of property crime committed by youth with a simpler method to recover their losses in Small Claims Court.

For more information about starting and defending a claim under the *Parental Responsibility Act*, visit our web site at www.attorneygeneral.jus.gov.on.ca to access the Small Claims Court guides to procedures. These guides will take you through the court process, step-by-step.

You can also obtain copies of these guides by visiting your nearest Small Claims Court.

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RECOVERING LOSSES IN
SMALL CLAIMS COURT ...

making it easier for
victims of property crime
committed by youth

This pamphlet provides
a basic overview of the
Parental Responsibility Act.
It is not intended as legal advice.

Copies of the *Parental Responsibility Act* can be found online at
www.e-laws.gov.on.ca.