

NOTICE OF MOTION

DEFAULT JUDGMENT ON CLAIM FOR POSSESSION OF LAND AND LIQUIDATED CLAIM

COURT DETAILS

Court

#Division

#List

Registry

Case number

TITLE OF PROCEEDINGS

[First] plaintiff [name]

#Second plaintiff #Number of
plaintiffs (if more than two)

[First] defendant [name]

#Second defendant #Number of
defendants (if more than two)

FILING DETAILS

Person seeking orders [name] [role of party eg plaintiff]

Filed in relation to plaintiff's claim

#Legal representative [solicitor on record] [firm]

#Legal representative reference [reference number]

Contact name and telephone [name] [telephone]

Contact email [email address]

PERSON AFFECTED BY ORDERS SOUGHT

[name] [role of party eg defendant]

[repeat for each additional defendant/cross-defendant default judgment sought against]

HEARING DETAILS

This motion is to be dealt with in the absence of the parties.

ORDERS SOUGHT

1. Judgment for the plaintiff for possession of the land comprised in [Title/Folio numbers] being the land situated at and known as [address].
2. Judgment for the plaintiff against the [role of party] for \$[amount].

3. The [role of party] pay the plaintiff's costs.

SIGNATURE

#Signature of legal representative

#Signature of or on behalf of
party if not legally represented

Capacity [eg solicitor, authorised officer, role of party]

Date of signature

[on separate page]

AFFIDAVIT

Name

Address

Occupation

Date

I [#say on oath #affirm]:

1 #I am the plaintiff.

#I am [give details of the capacity of the person making the affidavit and the facts that qualify the person to make the affidavit].

2 The statement of claim and possession of land coversheet was served on the [#first] defendant [specify mode of service (eg #personally #in accordance with the order for substituted service)] on [date]. [#The source of my knowledge is the affidavit of service of (name and date).]

[repeat for each additional defendant/cross-defendant default judgment sought against]

3 The [role of party] is the registered proprietor of the land comprised in [Title/Folio numbers] being the land situated at and known as [address].

4 #No persons (other than parties to the proceedings) were in occupation of the whole or part of the land when the statement of claim that sought possession of the land was filed.

#There were (or may have been) person(s) other than the parties to the proceedings in occupation of the whole or part of the land when the statement of claim that sought possession of the land was filed, namely: [provide names if known, or describe eg "no more than 3 unidentified occupiers", "4 squatters who refused to name themselves and who could not otherwise be identified" etc] **(occupier(s))**.

5 #The occupier(s) referred to in the preceding paragraph is/are/were in occupation pursuant to a right of occupation under a residential tenancy agreement within the meaning of the Residential Tenancies Act 2010.

6 [This paragraph is mandatory if the second option is selected in paragraph 4. Select the appropriate option. Modify and add further paragraph if, for example, some occupiers are not to be disturbed and others have vacated the land.]

#In respect of the occupier(s) referred to in the preceding paragraph, his/her/their occupation is not to be disturbed.

#The occupier(s) referred to in the preceding paragraph is/are no longer in occupation of any part of the land because: [give reasons eg the land is now vacant, the [role of party] evicted them].

#The occupier(s) referred to in the preceding paragraph has/have been served with the statement of claim and a notice to occupier under UCPR 6.8. The time allowed for the occupier(s) to respond to the notice has now passed.

#In respect of the occupier(s) referred to in the preceding paragraph [other - set out any other circumstances if the other alternatives do not apply].

7 The source of my knowledge of the matters stated in this affidavit concerning the occupation of land is [specify].

8 #The claim for possession of land arises from default in the payment of money.

The particulars of the default are:

[Set out particulars of default OR attach schedule of defaults. Include any payments made to date to reduce the amount owing and the current amount owing taking into account any such payments.].

#The claim for possession is not based on a default in the payment of money.

9 #The source of my knowledge of the matters stated in this affidavit concerning the default in the payment of money is [specify].

10 The amount owing to the plaintiff at the time of commencement of the proceedings in respect of the cause of action for which the proceedings were commenced was \$[amount].

11 #Since the commencement of the proceedings, no payments have been received or credits accrued to reduce the amount of the claim.

#Since the commencement of the proceedings, payments have been made or credits have accrued to the amount of \$[amount], which have reduced the amount of the claim to \$[amount].

12 The amount owing to the plaintiff and amounts claimed for [#interest and] costs as at the date of swearing this affidavit [#taking into account payments made or credits accrued] are:

Current amount owing	\$
Interest claimed at [rate, eg the prescribed rate under UCPR 6.12(8), (rate)% under the contract]	\$
Filing fees	\$
Service fees	\$
Solicitors fees	\$
TOTAL	\$

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.*
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:

 Identification document relied on (may be original or certified copy) †

Signature of witness

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.

 [* The only "special justification" for not removing a face covering is a legitimate medical reason (at April 2012).]

[†"Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011.]

Note: The deponent and witness must sign each page of the affidavit. See UCPR 35.7B.