

BANKRUPTCY HEARINGS BEFORE THE REGISTRAR

TRUSTEE OPPOSED DISCHARGE APPLICATIONS

Trustee opposed discharge applications are heard before a Registrar in Bankruptcy. A trustee will oppose a discharge if the bankrupt has failed to perform all their duties, if they have been bankrupt on a previous occasion or there is another s. 173 [*Bankruptcy and Insolvency Act*] “fact”.

Discharge Hearings are booked in 15 minute time slots and there may be up to 10 applications heard per time slot. The trustees will call Supreme Court Scheduling and reserve a time.

Trustees must attend – it is improper for trustees to advise bankrupts to apply for this type of discharge on their own without the trustee appearing, unless the court has heard and previously adjourned a bankrupt’s application for discharge.

OTHER APPLICATIONS BEFORE THE REGISTRAR:

For all other application to be heard by a registrar in bankruptcy, the trustee will call Supreme Court Scheduling to reserve a date and time for the hearing.

A notice of motion must be filed to confirm the booking of an application to the court. There is no filing fee payable by the trustee for these applications, however, the trustee is required to pay a fee to the registry to open a court file in advance of the application. Material to be relied upon in the hearing must be filed in advance so that the registrar may review it prior to the hearing (see AN-12 referred to below for the specifics of the material that must be filed). The procedures for motions are set out in sections 11 to 13 of the Bankruptcy and Insolvency General Rules.

Hearings to be scheduled in this manner include:

- approval of proposals, except where the practice in the registry allows for the approval to be given by way of desk order
- taxation of costs and trustees’ remuneration, except where the practice in the registry allows for these to be dealt with by desk order
- passing of a receivers accounts pursuant to a court order
- hearings where the parties have consented to the matter being heard by a registrar
- settling orders
- any applications which the registrar has indicated must be spoken to

CREDITOR OPPOSED DISCHARGE APPLICATIONS

These applications are where a bankrupt’s creditor(s) oppose the granting of their discharge. These applications are scheduled before a registrar by filing a motion and affidavit material (see AN-12 referred to below for the specifics of the material that must be filed).

Any contested Bankruptcy matter that falls within s. 192 of the *Bankruptcy and Insolvency Act* may be set down to be heard by a Registrar in Bankruptcy.

Note: Individual registries may have their own scheduling practices and the local Supreme Court Schedulers will guide you in scheduling a hearing.

APPLICATION FOR DISCHARGE BY A BANKRUPT

Where the trustee has been discharged and the bankrupt wants to apply for their discharge, they must file a notice of motion and affidavit material and serve their former trustee, their creditors who have proven claims and the Office of the Superintendent of Bankruptcy. These matters are heard by a Registrar in Bankruptcy and should be arranged through Supreme Court Scheduling. The bankrupt must prepare their own order following the hearing and it must be endorsed by all other parties who appeared at the hearing. Further information regarding the materials that must be filed in support of the application are found in AN-11 referred to below. A copy of the entered order should be provided to the Superintendent of Bankruptcy by the applicant.

Note: Individual registries may have their own scheduling practices and the local Supreme Court Schedulers will guide you in scheduling a hearing.

AN-12 - Bankruptcy Proceedings before the Registrar, which is located on the Supreme Court website at the following link, http://www.courts.gov.bc.ca/supreme_court/practice_and_procedure/practice_directions/administrative_notices/AN%20-%202012%20Bankruptcy%20Proceedings%20before%20the%20Registrar.pdf includes additional information specific to applications in bankruptcy before a registrar and includes various standard forms of orders.

Note: Civil Rule 8-1 (which governs setting matters for hearing in chambers) does not apply to Bankruptcy matters heard before the registrar.

Further reading: Continuing Legal Education Manual – Practice Before the Registrar; Houlden & Morawetz, Annotated Bankruptcy and Insolvency Act; Bennett on Bankruptcy

Documents required:

- Notice of Motion (for applications other than trustee opposed discharges)
- Supporting documentation (proposal, statement of receipts and disbursements etc.)
- Such additional materials are set out in AN-12 referred to above.
- No filing fee, if the application is made by the trustee.

This is an Information Sheet that provides general guidance only. It is not intended as legal advice. In the event of any conflict between this information and any Acts, Rules or law, the provision of the Acts, Rules or law apply.