

1 SENATE BILL NO. 337

2 INTRODUCED BY D. BERRY

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT A LANDLORD'S ACTION FOR POSSESSION
5 MAY BE BROUGHT IN SMALL CLAIMS COURT; CLARIFYING THAT CERTAIN COURT PROCEDURES
6 ESTABLISHED IN TITLE 70, CHAPTER 24, PART 4, APPLY TO JUSTICE'S COURTS; AND AMENDING
7 SECTIONS 3-10-1004, 25-35-502, 25-35-505, 25-35-602, 70-24-427, AND 70-24-429, MCA."

8

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10

11 SECTION 1. SECTION 3-10-1004, MCA, IS AMENDED TO READ:

12 **"3-10-1004. Jurisdiction -- removal from district court.** (1) (a) The small claims court has
13 jurisdiction over all actions for the recovery of money or specific personal property when the amount
14 claimed does not exceed \$3,000, exclusive of costs, and the defendant can be served within the county
15 where the action is commenced.

16 (b) The small claims court has jurisdiction over an action for possession brought by a landlord or
17 property manager under the provisions of Title 70, chapter 24, part 4, as long as any accompanying claims
18 of the landlord do not exceed the amount established in subsection (1)(a).

19 (2) A district court judge may require any action filed in district court to be removed to the small
20 claims court if the amount in controversy does not exceed \$3,000. The small claims court shall hear any
21 action so removed from the district court."

22

23 **Section 2.** Section 25-35-502, MCA, is amended to read:

24 **"25-35-502. Jurisdiction.** (1) (a) The small claims court has jurisdiction over all actions for the
25 recovery of money or specific personal property when the amount claimed does not exceed \$3,000,
26 exclusive of costs, and the defendant can be served within the county where the action is commenced.

27 (b) The small claims court has jurisdiction over an action for possession brought by a landlord OR
28 PROPERTY MANAGER under the provisions of Title 70, chapter 24, part 4, as long as any accompanying
29 claims of the landlord do not exceed the amount established in subsection (1)(a).

30 (2) The small claims court has jurisdiction over an interpleader under 25-35-508 in which the

1 amount claimed does not exceed \$3,000."

2

3 **SECTION 3.** SECTION 25-35-505, MCA, IS AMENDED TO READ:

4 **"25-35-505. Parties -- representation.** (1) Parties in the small claims court may be individuals,
5 partnerships, corporations, unions, associations, or any other kind of organization or entity, except the
6 state or any agency of the state.

7 (2) A party may not be represented by an attorney unless all parties are represented by an
8 attorney in a small claims court.

9 (3) Individuals may represent themselves in a small claims court. A partnership may be represented
10 by a partner or one of its employees. A union may be represented by a union member or union employee.
11 A corporation may be represented by one of its directors, officers, or employees. An association may be
12 represented by one of its members or by an employee of the association. Any other kind of organization
13 or entity may be represented by one of its members or employees.

14 (4) Except as provided in subsection (5), only a party, natural or otherwise, who has been a party
15 to the transaction with the defendant for which the claim is brought or a party authorized by statute may
16 file and prosecute a claim in the small claims court.

17 (5) A party may not file an assigned claim in the small claims court unless it has been assigned
18 pursuant to 27-1-718.

19 (6) Except for claims under 3-10-1004(1)(b), claims under 25-35-502(1)(b), or claims under
20 27-1-718, a party may not file more than 10 claims in any calendar year.

21 (7) Notwithstanding any other provision of this section, a personal representative of a decedent's
22 estate, a guardian, or a conservator may be a party in the small claims court."

23

24 **Section 4.** Section 25-35-602, MCA, is amended to read:

25 **"25-35-602. Form of complaint and order of court/notice to defendant.** ~~The~~ Except for an action
26 brought pursuant to 25-35-502(1)(b), the sworn complaint and order of the court must be made in
27 substantially the following form:

28 IN THE SMALL CLAIMS DIVISION OF THE JUSTICE'S
29 COURT OF COUNTY, MONTANA
30 BEFORE, JUSTICE OF THE PEACE

1

2 Plaintiff

3 vs.

Complaint

4

Case No.

5

6 Defendant(s)

7 Comes now the plaintiff, being first duly sworn, upon oath, and complains and alleges that the
8 defendant is indebted to plaintiff in the sum of \$....., for which sum is now due, owing, and
9 unpaid despite demands for the payment of the sum, together with plaintiff's costs expended in this
10 action.

11 Dated this day of, 20...

12

13 Plaintiff

14

15 Plaintiff's address

16 Subscribed and sworn to before me this day of, 20...

17

18 Justice of the peace

19 By:

20 Clerk, small claims division

21 ORDER OF COURT/

22 NOTICE TO DEFENDANT

23 THE STATE OF MONTANA TO THE ABOVE-NAMED DEFENDANT(S):

24 You are directed to appear and answer the complaint at:

25

26

27 on at

28 Reset for at

29 Reset for at

30 Reset for at



1 and to have with you all books, papers, and witnesses needed by you to establish your defense to the
2 claim. You are further notified that in case you do not appear, judgment will be taken against you by
3 default for the relief demanded in the complaint and for costs of this action, including costs of service of
4 the complaint and order of the court/notice to defendant.

5 You are further notified that within 10 days of service upon you of this complaint and order you
6 may remove this action from the small claims court to justice's court and that your failure to remove
7 constitutes a waiver of your rights to trial by jury and to representation by counsel.

8 To the Sheriff, Constable, or Server of Process of the county, greetings:

9 Make legal service and return on the defendant at

10 Dated this day of, 20...

11

12 Justice of the peace

13 By:

14 Clerk, small claims division"

15

16 **Section 5.** Section 70-24-427, MCA, is amended to read:

17 **"70-24-427. Landlord's remedies after termination -- action for possession.** (1) If the rental
18 agreement is terminated, the landlord has a claim for possession and for rent and a separate claim for
19 actual damages for any breach of the rental agreement.

20 (2) An action filed pursuant to subsection (1) in a justice's court or an action for possession
21 removed from a small claims court to a justice's court must be heard within 20 days after the tenant's
22 appearance, ~~or~~ the answer date stated in the summons, or the date of the filing of the notice or removal.
23 If the action is appealed to the district court, the hearing must be held within 20 days after the case is
24 transmitted to the district court.

25 (3) The landlord and tenant may stipulate to a continuance of the hearing beyond the time limit
26 in subsection (2) without the necessity of an undertaking.

27 (4) In a landlord's action for possession filed pursuant to subsection (1), the court shall rule on
28 the action within 5 days after the hearing."

29

30 **Section 6.** Section 70-24-429, MCA, is amended to read:



