JUSTICE FOR CHILDREN AND YOUTH

Legal information for young people in Ontario

Shoplifting and Store Demand Letters

How can stores demand money from me for shoplifting?

Some retail stores send letters to people who have been caught shoplifting in their stores, or to parents of young people who have also been caught. The letters are often signed by a lawyer and demand payment of amounts in the range of $300.00 to $800.00.

In most cases, the store has recovered the items stolen and is not claiming the value of what was taken. Instead they are claiming money to cover the cost of detecting shoplifters in their stores.

Lawyers call these “civil recovery demand letters”

Does the law say I have to pay?

The letter from the store does not create a legal requirement to pay. The store must start a lawsuit in court to force you to pay them. So you can choose to pay the amount or to ignore the letter. Our experience is that it is rare for the lawyer or store to follow up with a lawsuit if someone does not pay. It is your decision whether you feel morally obligated to pay any money to the store without a court order.

Can the store make me sign something before I can leave?

Before they let you leave, some store security guards ask you to sign a document saying that you understand you will be getting a letter from them demanding money. You do not have to sign this document. If you do sign the document, you are not required to make the payment claimed.

DO NOT IGNORE:
A letter from a Collection Agency or a Statement of Claim. Get advice from a lawyer or legal worker immediately.

Why should I not ignore a letter from a Collection Agency?

You should take these letters seriously because a Collection Agency has the power to affect your credit rating. Our position is that these types of demand letters are not legal and prohibited under the Collection and Debt Settlement Services Act.

How do I respond to a letter from a Collection Agency?

You, or your legal representative, should contact the Collection Agency and say that you dispute the debt that they are claiming against you. Once you have done this they must stop contacting you and the store must decide whether or not to start a lawsuit against you. You should also get a copy of your credit report to make sure this does not show up on it.

You can also file a complaint to the Ministry of Government and Consumer Services. In similar circumstances, the Ministry has taken the position that this is an illegal collection activity and gets the Collection Agency to stop. For information and to file a complaint: https://www.ontario.ca/page/filing-consumer-complaint

What is a Statement of Claim?

This is a legal document that starts a lawsuit against you. In Ontario Small Claims Court, this is called a “Plaintiff’s Claim”. If you are served with a Statement of Claim you are required to

respond with a Defence. If you do nothing, the court can make an order against you for the full amount that the store is claiming.

Will the store win in court?

In Ontario, you can be legally required to pay someone to compensate them if you caused them harm to their person, harm to their belongings, or by trespassing on their property. In most cases of shoplifting the items are recovered and the store has not lost money on those items. The letters claim money for the cost of security, punitive damages (to punish you), and trespass. What happens in court will depend on the situation.

In one case in Ontario (Hudson's Bay Co v White), the court ordered that the person pay for trespass and punitive damages, a total amount of $500.00. However, the person who was ordered to pay the amount never defended the case at the appeal level and was not charged by the police. For example, if you were charged for theft, the court might not order punitive damages or order that you pay a lower amount.

I am under 18 and the letter is sent to me. Do I have to pay?

The law is the same for someone under 18.

I am the parent of a child who was caught shoplifting and the letter is addressed to me. Do I have to pay?

Under the Parental Responsibility Act parents are legally responsible for harm caused by their children if the parent was negligent in the way they supervised the child or directed their child to cause the harm. It is unlikely that a court would find parents negligent for allowing their teenager to go shopping with friends at the mall.

In one case in Manitoba (DCB v Zellers Inc), the court ordered that Zellers Inc. pay back the money that a parent paid to them in response to the demand letter. The court said that the parent was not required to pay the money and that the store had no right to keep it.

Please also watch JFCY's video on these types of letters: http://youtu.be/bzrBLJI0mmo

FOR HELP FINDING A LAWYER:

Justice for Children and Youth:
1-866-999-5329, www.jfcy.org

Legal Aid Ontario:
1-800-668-8258. www.legalaid.on.ca

Community Legal Clinics: www.legalaid.on.ca
To locate and contact the clinic closest to you

Law Society of Ontario's Referral Service:
www.lso.ca, receive up to 30 min free advice

OTHER SERVICES:

Kids Help Phone: Phone and online support
1-800-668-6868, www.kidshelpphone.ca

LGBT YouthLine: Phone and online peer support
1-800-268-9688, www.youthline.ca

211 Ontario:
www.211ontario.ca, dial 211 from any phone

This pamphlet gives general legal information about the rights of young people to leave home in Ontario. Speak to a lawyer about whether these legal rights apply to your situation.

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This publication is also available in French upon request.
Cette publication est également disponible en français sur demande.

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