



**YUKON WORKERS'
COMPENSATION
HEALTH AND
SAFETY BOARD**

SUBJECT: ASSESSMENTS POLICY NO.: AS - 09
BOARD APPROVAL: UNDER REVIEW
APPROVAL DATE: _____
BOARD ORDER NO.: _____
EFFECTIVE DATE: January 01, 1993

POLICY STATEMENT

SECTION
REFERENCE:

72 (1)

*REVOKED
January 21, 1998
JLB
25 Feb 98*

POLICY:

COLLECTION OF ASSESSMENTS

DEMAND LETTERS:

If an employer owes money to the Board as a result of an assessment or special assessment and has failed to pay the full amount of the assessment on or before its due date, then the Board should write and remind the employer of the obligation and advise that unless either the assessment is paid in full or the employer contacts the Board and makes arrangements suitable to the Board for making the payment, within 21 days, the Board will commence legal proceedings to collect the unpaid portion of the assessment.

A draft copy of the type of letter that should be sent to the employer is attached as Schedule 1.

The letter should always be sent by double registered mail so that the Board will be able to determine whether it has been received by the employer.

DISTRESS WARRANTS:

If an employer fails to pay all or any part of an assessment or special assessment on or before its due date, the Board is entitled to distrain against the goods and chattels of the employer for the unpaid portion of the assessment.

The remedy of distress is somewhat archaic and fraught with legal pitfalls. If the Board wishes to enforce payment of its assessments by exercising its remedy of distress, then it should be referred to our Legal Consultant on the Board's behalf.

CERTIFICATES OF ASSESSMENT:

If an employer fails to pay all or any part of an assessment or special assessment within the time required in the demand letter, the Board should issue a Certificate of Assessment.

WRITS OF SEIZURE AND SALE:

Once a Certificate of Assessment is filed with the Supreme Court, the payment of the assessment may be enforced by a Writ of Seizure and Sale.

To prepare a Writ of Seizure and Sale, simply attach a certified copy of the Certificate of Assessment to the form attached as Schedule II.

An original and four copies of the Writ should be submitted to the Clerk of the Supreme Court at the same time the Certificate of Assessment is submitted for filing and should be accompanied by a covering letter and a cheque in the amount of the fees for filing the Certificate. The fee for filing the Certificate is \$30.00. There is no fee charged for issuing a Writ of Seizure and Sale. The cheque should be made payable to the Territorial Treasurer.

A draft copy of the covering letter that should be sent to the Clerk of the Supreme Court is attached as Schedule III.

EXECUTION OF WRITS OF SEIZURE AND SALE:

Once copies of the Writ of Seizure and Sale are returned to the Board, they should be sent to the Sheriff for execution. The Sheriff should be instructed to register the Writ in the Land Titles Office, so that the interests of the employer in real property governed by the provisions of the Land Titles Act will be bound by the Writ.

Further instructions to the Sheriff concerning the seizure and sale of personal property can be given at a later date after the Board has conducted personal property searches.

A draft copy of the covering letter that should be sent to the Sheriff is attached as Schedule IV. The letter should be accompanied by a cheque in favour of the Receiver General for Canada in the amount of \$2.00 in payment of their registration fees and a second cheque in favour of the Territorial Treasurer in the amount of \$30.00 in payment of the Sheriff's fees.

PERSONAL PROPERTY SEARCHES:

The purpose of conducting personal property searches is to determine the description of any assets that may be owned by the employer so that the Sheriff can be instructed to seize and sell specific items of property in order to satisfy the Board's Writ of Seizure and Sale. Personal property searches should be conducted at the same time that the Board files its Certificate of Assessment with the Supreme Court and requests the issuance of a Writ of Seizure and Sale.

If personal property searches fail to reveal assets owned by the employer, then the Board should contact the Sheriff to inform of the results of its searches and request that the Writ marked "Nulla Bona" be returned. The term "Nulla Bona" literally means no goods and is the term that will be used by the Sheriff to indicate that no goods of the employer have been found within the Yukon Territory that could be seized and sold in order to satisfy the Writ. A draft copy of the type of letter that should be sent to the Sheriff is attached as Schedule V.

Once a Writ is returned Nulla Bona the provisions of the Collections Act can be invoked to examine the employer under oath as to the assets and means. The Board should contact our legal consultant to conduct the examination. If the examination reveals that the employer has eligible assets, then we will direct the Sheriff to seize and sell them. If the examination reveals that the employer is owed money by third parties, then commence garnishment proceedings so that the money owed to the employer is paid directly to the Board.

MOTOR VEHICLES SEARCH:

To determine whether an employer owns one or more vehicles, the Board will write to the Motor Vehicles Branch of the Government of the Yukon Territory and request that they conduct a search of their records.

A draft copy of a letter requesting a motor vehicles search is attached as Schedule VI.

PERSONAL PROPERTY SECURITY INTEREST SEARCHES:

To determine the description of personal property of the employer that is subject to the security interests of third parties, the Board may conduct a search of the records of security interests in personal property maintained by the Department of Consumer and Corporate Affairs of the Government of the Yukon Territory. These searches may be conducted by attending at the office of the Department and reviewing the records maintained pursuant to the provisions of the former Assignment of Book Debts Act, the former Bills of Sale Act, the former Conditional Sales Act, the former Corporation Securities Registration Act, the Personal Property Security Act and pursuant to the former registration provisions of the Companies Act.

If a search of the records maintained prior to the enactment of the Personal Property Security Act reveals a security interest in personal property of the employer, the actual security agreement can be examined and a description of the encumbered property can be obtained.

When searching the records maintained pursuant to the provisions of the Personal Property Security Act, the Board will only be able to obtain general information concerning the type or kind of property subject to the security interests of third parties. In order to obtain a specific description of the encumbered property, the Board will have to write to the secured party and request and then examine a copy of the security agreement.

A copy of the form that is used for requesting a search of the records maintained pursuant to the Personal Property Security Act.

An example of the type of letter that should be sent to a secured party requesting a copy of the security agreement is attached as Schedule VII.

The letter to the secured party requesting a copy of the security agreement must be served on the secured party. It may be served by registered mail addressed to the post office address of the secured party that appears on the Activity Report of the Personal Property Security Registry.

MINING CLAIM SEARCHES:

In order to determine if an employer owns any mining claims, the Board will write to the Mining Recorders in the Dawson, Mayo, Watson Lake and Whitehorse Mining Districts and request that they search their records and provide the Board with a list of the claim numbers and claim names of all mining claims owned by the employer.

The Mining Recorders do not charge a fee for conducting these searches.

A draft copy of the letter that should be sent to each Mining Recorder is attached as Schedule VIII.

INSTRUCTIONS TO THE SHERIFF:

The Sheriff must be provided with express written instructions to seize specific property before the Sheriff will attempt to seize property pursuant to a Writ of Seizure and Sale.

If mining claims of the employer are to be seized, then the Board will have to provide the Sheriff with two additional certified copies of the Writ and a cheque in the amount of the fees charged by the Mining Recorder's Office for registering the Writ against the claims.

The fee for registering a Writ against placer mining claims is \$2.00 for the first claim and \$1.00 for each additional claim thereafter. The fee for registering a Writ against quartz mining claims is \$2.50 for the first claim and \$1.00 for each additional claim thereafter.

A draft copy of the letter that should be sent to the Sheriff instructing the Sheriff to seize mining claims and other personal property is attached as Schedule IX.

RECOMMENDATIONS:

The easiest items of property to seize and sell pursuant to a Writ of Seizure and Sale are motor vehicles. If a motor vehicles search or a search of security interests in personal property reveals that the employer owns motor vehicles that have a value in excess of its judgement then it needn't conduct further searches or provide the Sheriff with instructions other than to seize and sell the motor vehicles if the vehicles are located in the Yukon Territory and their whereabouts is known.

The Sheriff should always be instructed to register a Writ of Seizure and Sale in the Land Titles Office.

As soon as possible after an account become past due, an audit should be performed. The Auditor will obtain a detailed listing of Accounts Receivable showing correct name, address, amount owing, and services. Also a list of equipment fixtures, motor vehicles, etc. The Auditor should also obtain from the employer a statement showing how he intends to make payment and when.

NOTICE OF DISCONTINUANCE:

Schedule X

If the Board has commenced action in the Supreme Court by way of its certificate and the funds due the Board are received and the account satisfied, the Board should issue a notice of discontinuance to the Court which ceases the action. Two copies are required - one for the court and a file copy should be retained. There is no charge for this service.

NOTE: Schedules have been replaced by the President under the authority of Policy on Development and Application of Board Policy.