

LEARN LAW SHOPLIFTING DEMAND LETTERS

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If you or your child have been caught shoplifting, you may get a letter demanding that you pay the store money. This letter, which may come from the store or a lawyer, may ask you pay between \$300 and \$800 to cover the cost of trying to catch shoplifters. The letter may warn that you will be taken to court if you do not pay. In most cases the stolen items have already been returned, so the store has not suffered any losses. The person who shoplifted may also have been charged with a criminal offence.

If you get one of these letters, you are not legally required to pay. To force you to pay, the store must bring a lawsuit against you and prove their claims in court. It is rare that the store chooses to do so when the amounts claimed are relatively low. If the store does bring a lawsuit against you, what happens in court will depend on the facts of the case.

In Ontario, you can be legally required to compensate someone for trespassing on their property. In one case (*Hudson's Bay Company v. White*), the court ordered a person to pay for trespassing and punitive damages in the amount of \$500. However, the person who was ordered to pay that amount never defended the claim and was not charged by the police. If you are charged by the police, the court may order that you pay less money and may not order punitive damages.

Letters from Collection Agencies are different than letters from a store or a lawyer. Collection Agencies can affect your credit rating if you do not pay the amount claimed. However, you are not legally required to pay the amount claimed until it has been proven in court.

If you receive a demand letter from a Collection Agency, you should respond immediately. Send a letter by registered mail to the Collection Agency and state that you dispute the amount claimed. Keep a copy of the letter.

Once you have done this, the Collection Agency should stop contacting you. The store will then decide whether to bring a lawsuit against you.

You should order a copy of your credit report to make sure that your credit has not been affected. You can also make a complaint to the Ministry of Consumer Services. You can find a tip sheet on dealing with Collection Agencies at:

www.communitylegalcentre.ca/legal_information/Tips/Consumer/CollectionAgenciesTipSheet.pdf

If you receive a Statement of Claim or a Plaintiff's claim, get legal advice immediately. These are legal documents that start a law suit. To dispute the amount claimed, you will need to file a Statement of Defence. You do not have much time to file this, so you must act quickly.

If you are under the age of 18, the information above still applies to you. If your child has been caught shoplifting, a demand letter may be addressed to you. The store would have to show that you as a parent were negligent in some way to be successful in claiming money against you in court. In one case in Manitoba (*D.C.B v. Zellers Inc.*), the court ordered Zellers to pay back money that a parent paid to them in response to a demand letter. The court said that the parent was not required to pay the money, so the store could not keep it. This type of case has not come up in Ontario yet.

More information can be found at:

- Ontario Ministry of Consumer Services: <https://www.sse.gov.on.ca/mcs/en/Pages/default.aspx>
- Your Legal Rights: <http://yourlegallrights.on.ca/resource/shoplifting-demand-letters>

Adapted from Justice for Children and Youth:

<http://jfcy.org/wp-content/uploads/2013/10/ShopliftingDemandLettersApril-20121.pdf>