

Presented by:



“Foreclosure Matters: What to do in Court” (Tips and Information)

(Can be heard in both Queen’s Bench and Masters’ Chambers)

Welcome to this film on foreclosure. You can find information on the internet about the foreclosure process. At the end of this film, we will provide you with a list of where you can find this information.

If you are here on a foreclosure matter, it might be because you have fallen behind on your mortgage payments which you owe to the bank. The bank is now bringing you to court to get its money back.

Here are a couple of important tips to remember. In court, the bank’s lawyer speaks first. You speak next. Once a judge has made a decision, try to speak with the bank’s lawyer outside the courtroom. The lawyer should be able to explain what the judge decided and what you need to do.

What is a mortgage?

- A mortgage is an agreement which you have made with a bank to borrow money.

Most people get a mortgage when they need a large amount of money to buy a house. Some people don’t borrow money from a bank but take over the previous owner’s mortgage.

There are two main types of mortgages:

- A conventional mortgage and
- An insured mortgage.

What is an insured mortgage?

You may have this type mortgage if you have paid less than 20% of the purchase price of your house. If you have an insured mortgage which you cannot pay back, the bank may be able to sell your house to get its money back.

With an insured mortgage, if the house sells for less than what is owing to the bank, you may be personally responsible for paying back the bank any money which is still owing on the mortgage.

You may also be personally responsible for paying back money if you sold your house and allowed someone else to take on your mortgage, and that person has failed to pay the mortgage. In this case, the bank may still require you, as the person who originally got the mortgage, to pay back any amount still owing on the mortgage.

What is a conventional mortgage?

You may have this mortgage if you have paid 20% or more as a down payment on the house. If you have a conventional mortgage that you cannot pay back, the bank can sell or take your house to get its money back. However, unlike in the case of an insured mortgage, you will not be personally responsible for paying back any money owing to the bank after the sale of your house.

This means that once the bank has sold or taken your house, you do not owe the bank any further money on the mortgage.

What happens if you fall behind on your mortgage payments?

If you fall behind on your mortgage payments, a lawyer for the bank may file a Statement of Claim against you. A Statement of Claim is a legal document where the bank sues you to get its money back. If you cannot pay the bank back, the court may give you time to pay back your missed mortgage payments or to sell your house. This is called a Redemption Order.

What is a Redemption Order?

A Redemption Order gives you time to pay back your missed mortgage payments or to sell your house. The amount of time a judge will give you to do this depends on your personal situation and how much you owe the bank on your mortgage. A judge can give you up to a maximum of 6 months to pay your missed mortgage payments or to sell your house.

During this time, you can continue to live in your house. If you are unable to pay back the missed mortgage payments or sell your house during the amount of time a judge gives you, the bank will sell your house or take it over and then you will have to move.

What happens if you catch up with your mortgage payments?

If you pay the bank within the time a judge has given you, legal proceedings against you will end. However, you need to make sure that you continue to make your mortgage payments in the future or the bank will bring you back to court.

What happens if you don't repay the mortgage in the time allowed?

If you don't repay the bank, the bank can ask the judge to sell or buy your house. The bank can also ask the judge to buy your house to get its money back. If the bank buys or sells your house, you will usually have 30 days to move out, but you can ask for extra time if you need it.

Remember that for an insured mortgage, if the bank is still owed money after it has sold your house, the bank can sue you for any money still owing.

Thank you for watching this film.

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