



The Supreme Court of the Northwest Territories

To: Members of the Northwest Territories Bar

January 21, 1999

CLERK'S PRACTICE DIRECTIVE NO. 11

SERVICE BY REGISTERED MAIL

Problems have been encountered with respect to the contents of an affidavit of service when service is effected by registered mail. The Rules of Court provide for service by simple registered mail, even for originating documents in certain situations (such as Rule 30(3)(a)(ii) for companies). There are no provisions in the Rules of Court for double registered mail service (but there may be in some statutes).

The point of affidavit of service is to establish that the claim or document came to the attention of the respondent at a particular point in time. This is critical when the serving party seeks a default order. Rule 93(1) states, for example, that the defendant has 25 days to file from "the day on which the defendant is served".

Therefore, when service is effected by simple registered mail, the affidavit of service must contain:

- (a) the address to which the document was mailed (with the Post Office registered receipt of mailing attached)
- (b) the reason why the address was chosen (for example, "the registered office of the company pursuant to Rule 30(3)(a)(ii)"); and
- (c) information conveyed to the affiant by some official at the Post Office as to the anticipated delivery date of the letter (the information can be conveyed verbally or in writing but the name of the official must be set out).

The time for responding to the document will be counted from the day of anticipated delivery. If that information is not in the affidavit of service, then it must be contained in an affidavit filed at the time default is sought (such as pursuant to Rule 160).

In those cases where by some special enactment double registered mail service must be used, the affidavit of service must contain some form of acknowledgment, either a receipt card or information from the Post Office, that the letter was picked up.

Counsel are reminded that, in every case, if information comes to them suggesting that the letter was not actually received by the person to be served, that must be disclosed on any default application.

NOTE: For service by mail in criminal matters, Rule 13(2) of the Criminal Procedure Rules provides that, unless there is evidence to the contrary, service of the document by mail is deemed to be effective on the seventh day after the day on which the document is mailed.

Clerk of the Supreme Court