



Limitation Dates by Scott D. Abel

Most people try to avoid seeing a lawyer if at all possible. Although not as physically painful as a root canal without anesthetic, most people would still prefer not having to see a lawyer, if at all possible. This is true whether you are the person who has been wronged, or the person alleged to have wronged someone.

Not seeing a lawyer at all, or even in a timely manner, can have negative consequences. If you have been wronged, the law requires you to bring your action in a timely manner. You cannot wait forever to sue someone.

In Manitoba, the time periods for commencing a court action are set out in the *Limitation of Actions Act*. This legislation prescribes how long from the cause of action arising, you have to commence your action.

Generally speaking, if you are suing someone for a breach of contract, you have 6 years from the breach to start your lawsuit and if you are suing someone due to their negligence, you would have 2 years from the negligent act to bring your action.

Specific circumstances require specific advice about the limitation period. However, the law requires you to bring your action within the specified period. This is required for several reasons. Firstly, evidence is not preserved forever. Witnesses forget or die, documents get destroyed or lost, all of which makes it more difficult to prove and defend an action. Secondly, a potential defendant should not have to sit on pins and needles, while you decide whether to sue. The potential defendant is entitled to some finality as well, to know that regardless of what they are alleged to have done, that they will not be sued.

What if you have been wronged, but do not find out about it until several years later, long after the limitation period has expired? The *Limitation of Actions Act* has specific provisions which allow you to proceed to Court, again within a certain time period of finding out about this information, seeking the Court's permissions to proceed with a claim, despite the limitation period having

lapsed.

Regardless of the circumstances, seeking advice from a lawyer as early as possible will help to avoid difficult circumstances. The law is not forgiving. If the limitation period is 2 years, and you commence your action on the first day after the two years has expired, your claim may likely be dismissed. As lawyers, we try to be creative to ensure that where there is a wrong, there is a right. However, if the client is tardy in seeking advice, often times there is nothing that can be done.