

As a member of the Civil Enforcement Industry for almost 14 years, I have seen many changes, updates and improvements to the many acts we work under, to the procedures and policy of the assorted agencies and the overall management of civil enforcement actions in the Province of Alberta. These changes have enabled the industry as a whole to provide better service and better returns to our clients and to creditors' throughout Alberta.

Over this time I have also seen some changes that have caused concerns, issues and extra costs being incurred for civil enforcement creditors. When we encounter an issue that is causing challenges and extra costs to our clients, we feel it is important to educate our customers on how they can work to limit these extra costs or steps on their files.

Once such situation is when RCMP or local police detachments are requested to provide an officer to assist a Civil Enforcement Bailiff to keep the peace when enforcing a Court Order or an Order for Possession.

Obtaining an Order which includes a request for Police Assistance

It has become very common for our clients to include a paragraph or sentence in their court orders stating that the Civil Enforcement Bailiff may request the assistance of the local police or RCMP detachment to assist if necessary.

“the Civil Enforcement Agency is authorized to request the assistance of any peace officer of the Municipal Police Service (or RCMP) in order to carry out its duties in the within matter”.

“the Civil Enforcement Agency may request the assistance of any peace officer of the Municipal Police Service (or RCMP) in order to carry out its duties in the within matter”.

While on the surface this wording allows the Bailiff to request Police or RCMP assistance – it does nothing to make it mandatory for the Police Department or RCMP officers to actually assist.

It is important to understand that a Civil Enforcement Bailiff is a “Peace Office”. And as such already has the right to request the assistance of the local police or RCMP detachment.

Authority – Civil Enforcement Bailiffs

When acting as a Civil Enforcement Bailiff, the Bailiff is a peace officer whose authority is derived from the Civil Enforcement Act. Under section 2 of the Criminal Code, a “peace officer” includes:

*A mayor, warden, reeve, sheriff, deputy sheriff, sheriff's officer and justice of the peace and a police officer, police constable, **bailiff**, constable, or other person employed for the preservation and maintenance of the public peace or for the service or execution of civil process.”*

Civil Enforcement Bailiffs Section 10(1) Civil Enforcement Act of Alberta

The Sheriff may appoint an individual as a civil enforcement bailiff to carry out, subject to any restrictions or conditions contained in the appointment.

- a) The seizure of personal property.
- b) The removal of seized personal property,
- c) Evictions, and
- d) Any other functions or duties provided for or permitted under this or any other enactment

Unfortunately, we have seen numerous instances in recent months, where the officers will attend the location, but will not assist with the enforcement of the related order or with the removal of persons who are disobeying the Order for Possession.

Some reasons provided are: *“this is a civil matter and not a criminal matter”, “we do not want to become embroiled in a civil matter, or find ourselves sued” or the most commonly used reason “the order says MAY assist – it does not command or direct us to assist”.*

This last reason has caused more than one creditor to have to return to court to obtain an order compelling the local police or RCMP detachment to assist. This court re-attendance causes additional undue costs and delays to the creditor in each and every one these matters.

Obtaining an Order mandating Police Assistance

It has become the policy of Consolidated Civil Enforcement to recommend to our clients who are looking to obtain any order, to ensure that they include a clause directing the local police or RCMP detachment to assist the Civil Enforcement Bailiff in carrying out their duties.

“the local Municipal Police Service or RCMP Detachment is hereby instructed to assist the Civil Enforcement Bailiff in the carrying out of their duties in the within matter”

“Upon request by the Civil Enforcement Bailiff, the local municipal police service or RCMP Detachment must assist the Civil Enforcement Bailiff in the carrying out of their duties in the within matter”

“Civil Enforcement Agency is authorized to request the assistance of any peace officer of the Municipal Police Service (or RCMP. Such said officer must ensure that the Civil Enforcement Bailiff is able to carry out their duties in the within matter”.

When you are looking to obtain an order where you believe police assistance may be required, we would like to suggest that you ensure that this assistance will in fact be available, if required, by ensuring that that sentence or paragraph in your order is worded in such a way as the compel or require the officers to assist.

This one small change will help us to ensure that you are not incurring extra costs or delays on the enforcement of your client's orders.

If you have any questions relating to the information provided above, or if I can assist you with any other civil enforcement questions/needs, please do not hesitate to drop me an email at patriciaw@ccebailiff.ca or contact me by phone at (403) 668-8804 or (780) 448-5833 ext. 8804.

Have a wonderful February and try to keep warm in our ever colder Province of Alberta

Patricia Wilson

Director, Civil Enforcement