

Case Law - Using Past Court Decisions to Defend Your Rights

IMPORTANT: The legal information contained in this sheet is intended to explain how to use court decisions to prepare your case. **It is not intended to serve as legal advice or to replace the guidance of a lawyer.**

USEFULNESS OF CASE LAW

Interpretation and application of the law

A **court** is an **authority responsible for making decisions** about people's rights. There are judicial courts, such as the Superior Court of Justice of Ontario, as well as administrative tribunals and boards, such as the Landlord and Tenant Board.

Case law refers to the **decisions made by tribunals** across Canada. In French, the term used is ***jurisprudence***, which should not be confused with the English word jurisprudence, which refers to the philosophy of law.

Case law can help you in **two ways**.

- It allows you to **see how courts have handled situations like yours**. For example, you can look at past cases to compare the **amounts of compensation** awarded in similar circumstances.
- It helps you **understand the legal principles developed by the tribunals**. In Canada, in addition to acts passed by governments, **judges can create legal principles** through their decisions. For example, the concept of **unjust enrichment** is a principle that comes directly from case law.

PRINCIPLE OF PRECEDENT

Application of judicial decisions

To understand which decision may impact your case, it is essential to know the **principle of precedent**. A precedent is a **judicial decision that binds courts of the same level or lower**, provided that the facts and legal issues are similar.

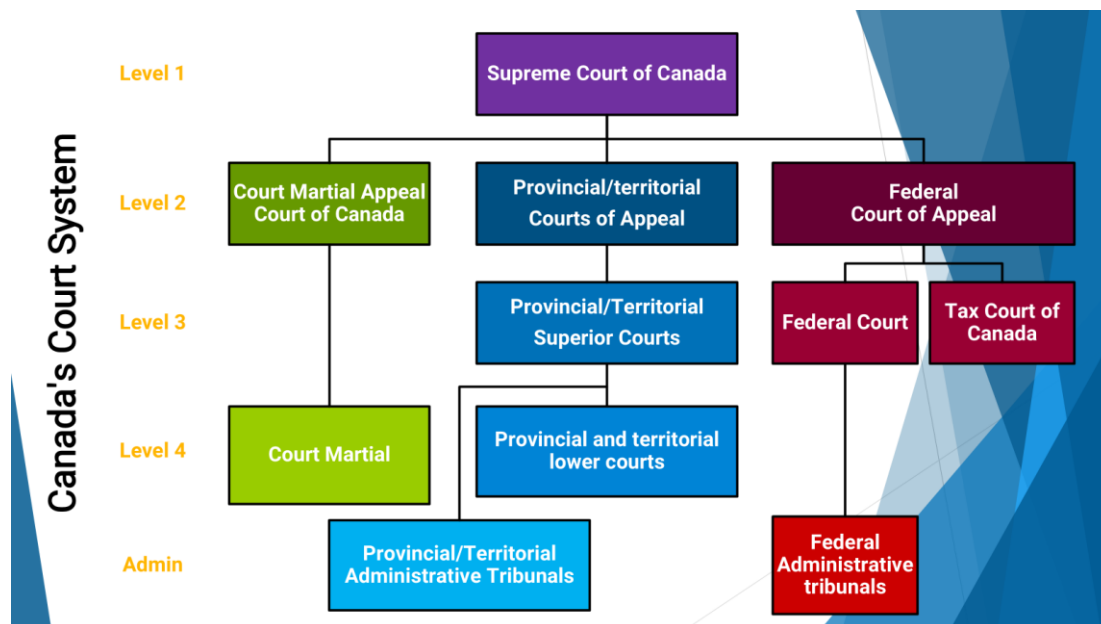
To **assess the value of a decision**, three elements are important:

RESOURCES FOR CONDUCTING CASE LAW RESEARCH

- **[The Canadian Legal Research and Writing Guide](#)**: A resource that explains the basics of legal research and writing in Canada.
- **[Introduction to CanLII Guide](#)**: A guide developed by the National Self-Represented Litigants Project to help navigate CanLII.
- **[Research Help](#)**: A guide that explains how to use the CanLII search engine. You can also use other guides for using CanLII [here](#).

- **Territory:** Each court has authority over a specific region. For example, the Court of King's Bench of Alberta generally has no authority in Ontario.
- **Type of case:** Each court only handles certain types of cases. The Small Claims Court, for example, cannot decide criminal cases.
- **Court hierarchy:** Courts are organized according to a hierarchy of authority. The **Supreme Court of Canada** is the highest court. Its decisions apply to all courts across the country, regardless of the subject.

Table – Hierarchy of courts in Ontario and at the federal level



RESEARCH IN CASE LAW

Ways to find court decisions

There are several ways to find decisions made by the courts. The best choice depends on your needs and resources.

- **Hiring a professional or a legal research company:** You can hire a lawyer, a paralegal, or a specialized company to conduct the research without giving them your entire case. These services are generally paid.

- **Doing your own research at public legal libraries:** Some courthouses, universities, or law libraries offer public access workstations. You can search online using keywords such as "law library," "courthouse library," or "law school" followed by the name of your city to see if resources are available near you.
- **Doing your own research using databases:** You can use online legal research websites. In addition to paid options, the **CanLII** database is freely available.

The **Legal Information Centre of Ontario** offers free confidential legal information and referral services in English and French to anyone with a legal problem who is located in Ontario. **Book an appointment [online](#) or call us at 1 (844) 343-7462** (toll-free) for a 30-minute legal information meeting.



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