



Notice of property damage liability

A letter may be required when a claims adjuster, after having begun his investigation, informs a third party who could be held liable for the damages caused to an insured that he may incur third-party liability. When this notification is made, the third party is also encouraged to notify his own insurer of the procedure underway.

EXAMPLES OF LETTERS FOR CLAIMS ADJUSTERS

Two “assumption of liability” form letters are available: one for **claims adjusters employed by insurers** and the other for **independent claims adjusters** mandated by insurers.

Depending on the cause of the damages, the decision whether or not to identify the type of loss is left to the discretion of the claims adjuster and the insurer.

CAUTIONARY NOTES

This Property Damage Liability Notice must not be used in the case of claims where latent defects appear to be the source or cause of the damages. Under such circumstances, section 1739 of the Quebec Civil Code requires that the seller of the property be given notice of the defect in the property, such as a building, within a reasonable period of time. This notification must not only identify the defect affecting the property but must also give the seller a reasonable period of time to come and take note of the defect and the resulting damages, and give him the opportunity to correct the defect.

It is up to the claims adjuster to obtain precise instructions from the insurer in the case of damages due to latent defects, including the possible use of a non-waiver agreement.

After the Property Damage Liability letter is sent to the third party:

- In the majority of cases, the claims adjuster will receive a letter from the claims adjuster mandated by the insured guaranteeing third-party liability.
- Together, the two adjusters decide upon how they will deal with this part of the claim in keeping with their respective mandates.
- They may exchange certain supporting documents, in other words, “subrogation documents”, in order to speed up the reimbursement process in situations where third-party liability is clear.