

Warranty Claim Guide

The purpose of this guide is to provide direction in the process of submitting a warranty claim, highlight important areas of your Warranty regarding claims, and answer some frequently asked questions. It does not replace your Warranty as contained within your Certificate of Possession and New Home Warranty (“Possession Certificate”). To fully understand all your rights, responsibilities, limitations, etc. we recommend you read your Possession Certificate thoroughly.

Several references to the Possession Certificate have been made in this document. In the event there is a discrepancy between information contained herein or the Possession Certificate held by the Purchaser, the Certificate is considered correct.

This document coincides with the certificate (1 and 5 Warranty) having a version date of “Rev. 04/2022” OR “Rev. 06/2024” and the certificate (1, 2, and 7 Warranty) having a version date of “Vers. 09/2014”, which can be located on the bottom right-hand side. Do not use this guide if your Certificate does not contain this version date.

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What is the Possession Certificate?

The Possession Certificate is a contract between the Purchaser (homeowner) and the Builder which outlines the parameters of the Warranty and the rights, responsibilities, and obligations of both parties. The Builder is responsible for issuing this certificate to the Purchaser.

The Role of the Builder

The Builder is responsible for completing repairs to Defects in Workmanship and Materials deemed to be covered under the Warranty.

The Role of the Program

The New Home Warranty Program of Manitoba Inc. (“The Program”) is the administrator of the Warranty and acts as a mediator between the Purchaser and the Builder concerning any claims made under the Warranty. If a Builder becomes incapable (bankrupt; goes out of business) or otherwise fails in its obligation to repair Defects in Workmanship and Materials, the Program will undertake the Builder’s obligations such as repairs deemed to be covered pursuant to the terms of Warranty. The Program will not complete repairs on disputed items unless the matter has been adjudicated through Conciliation and those repairs are deemed covered. Please see the section on Claims Procedure and Conciliation for more information.

Customer Service and Communication

We fully appreciate and understand the frustration in finding defects and other imperfections with a newly purchased home. Your Builder will be equally frustrated to learn that a product has failed or the workmanship of a trade is in question. Keeping the lines of communication open in a calm and considerate manner is the best way for all parties to resolve the issue.

- Verbal, physical, or other communicative abuse against the Builder and his or her trades, representatives, and staff and same of the Program’s staff and representatives will not be tolerated and may result in the denial or cancelation of your claim. This includes profanity, yelling, racial remarks, bullying, slander, and threats.
- If you have any questions or concerns about repairs, timelines, products, etc., speak with your Builder before repairs begin. This will help avoid surprises or confusion at the time of repairs, which may lead to repeat repair visits.
- Respect the trades making repairs to your home by providing them with space and time to complete their job successfully. Interference with any level of abuse or questioning the trade’s expertise may create an uncomfortable situation that may lead to mistakes, increase the time it takes to complete the job, or cause the trade to leave the house prematurely. If you have concerns, ask the questions you need before the trade begins the work (how long will it take, should I take additional precautions to my home/possessions, what kind of repair are you making?). If your concerns remain unanswered, call your Builder. If your Builder is not available, call the Program.
- Phone calls, texts, and emails are answered during normal working hours. Should our Warranty Manager provide you with a mobile number for communication, please avoid calling or sending texts after office hours unless invited to do so.

Before Submitting Your Claim

- **REVIEW YOUR WARRANTY.** Locate and review your Possession Certificate for the definition of a defect, exclusions to the Warranty (Section 1 and 3), Construction Performance Standards (on our website), coverage periods (section 2), and claim submission deadlines/claims procedure (section 18-23). **Not everything is covered!**
- **CONTACT YOUR BUILDER:** As your builder is responsible for making any warranty repairs to your home, contact your builder directly first to discuss the items you feel require attention. During this first step, take note of the remaining time in your coverage period. While the repairs themselves do not need to be completed within the coverage period, the Program must receive your claim in writing before the expiry of your coverage period. And those items that are disputed need to be identified before expiry of the Conciliation deadline, so you may decide whether you wish to pursue your position through this form of arbitration (See section on Conciliation below for more information).

When and How to Submit a Warranty Claim

- Claims must be received in writing within the coverage period. Please refer to section 2 of your Warranty for details. If you notice a defect in the 'load-bearing portion' of your home (a structural defect), you must notify your Builder and the Program within 30 days of identifying the possible defect (within the structural coverage period).



The Program will NOT open a claim or add additional items to a claim by verbal communication or through a text message. In no circumstance will a claim be accepted past the coverage period, even if there is evidence of correspondence with the Builder within the coverage period.

- Send your claim to claims@mbnhwp.com, regular mail, or fax (204-287-8561) with the following information:
 - Your full name, address of the home, daytime phone number
 - Enrollment #, if available (front side of your Possession Certificate)
 - Name of your Builder
 - Let us know if you are a subsequent owner and/or are renting out the home
 - Numbered list of the items you wish to claim as deficient with details for each claimed item (location in the home; nature of the problem)
 - Any supporting information (photos/videos, 3rd party inspection report, correspondence with the builder).



The claim MUST provide specific information about the alleged defect(s). An email indicating, "I have defects in my home and would like to open a claim", does NOT constitute a claim. **Explain WHY the item is defective.** "My floor is defective" – is not a claim. Instead, indicate type of floor, location, details of the defect: "My laminate flooring is lifting in 3 spots in the living room."

- If you would like someone to handle your claim for you (neighbour, friend, relative, real estate agent, etc.), please fill in and sign the Letter of Authorization at the end of this document and return to the Program.

- Please refrain from including slanderous or demeaning comments about the Builder in your notice to us as your claim will be shared with the Builder and potentially any 3rd party involved in investigating your claim. If you would like to share any concerns above and beyond the details of the defect, we are happy to discuss these over the phone or via separate correspondence.
- You may submit more than one claim or add to an active claim (provided you are still within the coverage period).
- During the course of the claim, if you decide an item is no longer an issue requiring evaluation or repairs you may withdraw the item from your claim by letting us know in writing. The Program and Builder will have no further responsibility regarding said item.

Claims Procedure

- Upon receipt of your claim, it will be reviewed for completeness and entered into our records. We may contact you if clarification or extra information is needed.
- The claim will be forwarded to your builder for their comments. We are generally looking to determine which items your builder agrees to repair under Warranty and which items they feel are not covered. During this time, your builder may contact you to review the issues.
- We will discuss with both parties the coverage eligibility of the claimed items by referencing the terms of warranty, building code, and Construction Performance Standards.
- If there are items that are disputed or require additional clarification, the Program may ask that you provide photos or 3rd party reports that support the alleged defect.
- If the Program deems it necessary, a review will be done on site at your home by a representative of the Program, usually with the Builder present.



During a site visit, please note that the Program representative will not be actively inspecting for additional defects and will not comply with a request to do so. Such a visit is focussed on reviewing and discussing the alleged defects submitted in writing prior to the visit. Should you discover additional defects during the time of the visit, either on your own or as part of any conversation between the parties in attendance and you would like them added to your claim, you must follow up by providing notification in writing to the Program. Verbal discussion about any issue that has NOT been received in writing does NOT constitute a claim.

- Your builder will make repairs to those items **that are NOT disputed (agreed upon as covered under warranty), OR as required through the results of a Conciliation.**



The Program will do its best to advise both parties as to the coverage eligibility of those items claimed to be defective. It is NOT the responsibility of the Program to do repairs on an item just because the Builder disagrees with the homeowner OR the Program. Disputes **MUST** be handled through the Conciliation process – regardless of any opinions or information in coverage eligibility communicated by the Program to both parties.

Definition of a Defect

NOT ALL DEFICIENCIES ARE COVERED: Not all items submitted under a claim are eligible for coverage under warranty. Coverage is limited to the terms of warranty and the definitions therein. (At the end of this document information is provided on exclusions to the warranty.)

Per section 2 of the Warranty on the Possession Certificate:

"defects in workmanship or materials" - means any construction covered under the terms of this Warranty Certificate and carried out by the Builder which fails to comply with the Manitoba Building Code, or the building standards of the local authority having jurisdiction, as in effect at the date of issuance of the building permit; and

"major structural defects" - are defects in workmanship or materials resulting in failure of the load-bearing portions of the home. Specifically excluded as major structural defects are defects in driveways, basement floors, garage floors, patios, sidewalks, retaining walls, any concrete construction which is not load bearing, or any defects not caused by the negligence of the Builder; and

"load bearing portion" - includes footings, pads, piles, basement walls, grade beams, teleposts, columns, beams of timber or steel, load bearing walls, floor joists, and roof trusses, provided that they constitute an integral part of the home or attached garage.

Construction Performance Standards

This guide, available on our website, outlines the parameters under which certain items are covered and is designed to supplement the building code.

Conciliation

Conciliation is a form of arbitration that can be requested to settle a disagreement under the terms of warranty. If any claimed item is disputed, either party may request conciliation by submitting a written request for conciliation within the timelines prescribed.

CONCILIATION TIMELINES:

1 and 5 Warranty (this is the standard warranty)

- No later than 1 year and 60 days of the Date of Possession under section 2.a of the Warranty

1, 2 and 7 Warranty

- No later than 1 year and 60 days of the Date of Possession under section 2.a of the Warranty
- No later than 2 years and 60 days of the Date of Possession under section 2.b of the Warranty.

Conciliation may be used for the following:

- Dispute over coverage eligibility ("My floor has dents but the Builder says it is not covered and will not fix it")
- Dispute concerning the scope of suggested repairs (eg. repair versus replacement)
- Lack of communication from the Builder in identifying the items they agree to repair

Conciliation may not be used for contractual disputes or claims submitted within the structural coverage period of the Warranty. Conciliation should not be used where repairs are agreed upon and underway, unless there is a dispute over 'how' to do the repairs or when a completed repair is disputed.

Conciliation Procedure

The Program will appoint a conciliator (3rd party inspector) to conduct a thorough investigation and issue a report that outlines the rights and obligations of the Builder and/or the homeowner and sets out the remedial work, if any, required to settle the dispute in accordance with the terms of the warranty. The decision of the conciliator is final and binding on the Builder, the Program and the homeowner. If the Builder fails to comply, the Program will complete the work.

To initiate conciliation, the homeowner must make a request in writing and provide a deposit (amount determined by the Program; usually between \$250 and \$500). If 50% or more of the items are found to be of valid concern (covered under warranty), the deposit is returned.

What to do when the deadline for conciliation is approaching and repairs are outstanding

- Review your communication with the builder on all items that you have submitted under your claim and be sure you have clear written indication that the Builder agrees to repair the items you feel are covered.
- For any item(s) you feel should be covered under warranty that is disputed by the Builder or where you do not have a formal commitment from the Builder to affect repairs, provide a notice to the Program in writing advising, "I wish to proceed with conciliation regarding "Disputed Item(s)".
- We will contact the Builder to advise. Should the Builder be willing to revisit the matter, we will pause your request while you and the Builder resume discussions, with the Program providing additional guidance as to the legitimacy of the item as it relates to coverage under Warranty.
- If the Builder maintains their position and you wish to proceed, we will require a Request for Conciliation document and deposit to formally initiate the conciliation.



Sometimes a Builder will provide a generic answer to your claim such as, "I will address all warranty items", or "I will investigate these items", or "this item is minor, but can be addressed". While the Program will do our best to discuss these claimed items with both parties and provide guidance on warrantability, this DOES NOT take the place of the Builder's position in the matter. If you are at all unsure that your Builder fully intends on completing a repair on a defect that YOU feel is covered (taking into consideration guidance from the Program), make a request for conciliation within the timeline. This will secure your right to have this matter adjudicated and repaired should the Builder continue to be non-communicative, vague in their position, or decide not to complete the repairs. Your request can be as simple as, "*The following items remain outstanding, and I would like to use Conciliation in the event the Builder refuses to complete the repairs.*" It is easy for us to pause a request and cancel the request if not needed. However, the Program may not change the conciliation deadline.

Warranty Repairs

- Repairs need not be completed within the coverage period to remain covered under warranty, so long as the item is not disputed.
- There is no timeline for the completion of repairs, and each builder will vary in their speed in which a defect is evaluated and subsequently repaired. This will be contingent on supplier and manufacturer discussions/evaluations, product availability, trade availability, environmental factors (rain; temperature), internal customer service procedures, etc.
- Your Builder, the Program, the Conciliator or any representatives of the aforementioned shall be entitled to complete access to your home during normal business hours for the purposes of carrying out inspections or effecting repairs. **If you needlessly cancel site visits, deny access to your home, or ask trades to leave your home, the Program may cancel your warranty claim in its sole discretion (refer to section 28 of the Warranty).**
- The Builder has every right to attempt to make the applicable repairs with the trades he/she deem are appropriate for the job. If the suggested repair method or resulting repair is not acceptable, please contact the Program immediately to discuss.
- Scheduling of repairs is done between the Builder and homeowner. If scheduled repairs do not occur as planned, please discuss directly with your builder first. If the matter becomes repetitive, contact the Program for discussion.
- The homeowner is responsible for moving or removing any furniture or personal belongings to allow repairs to be carried out.
- Do not attempt to make alterations to any alleged defect or otherwise attempt to repair, as this will invalidate the claimed item and the Program and Builder will have no further responsibility to correct the defect.
- All precautions must be taken by the homeowner to ensure the alleged defect is not further exacerbated by measures controllable by the homeowner. Failure to mitigate damages may result in the claim being denied or cancelled. For example, if there is a plumbing leak, the homeowner shall turn off the water to the affected area and protect the home from further damage (example: placing a bucket under a leaky area; putting a tarp over an area of the roof where shingles are missing).
- The Program does not reimburse for repairs undertaken by the homeowner or trades hired by the homeowner or reimburse for any other monetary losses.
- If a product or material requires replacement and an exact replacement is not available, the Builder will replace with a similar material/product within the same grade or value. Any upgrades or value improvements is at the discretion of the Builder.
- If a Builder and the homeowner agree to resolve a dispute through monetary compensation (rather than effecting repairs), the Program has no further responsibility concerning the claimed item and will not engage in any assistance with the details of this type of agreement. In this event the homeowner may be required to sign a waiver/release of obligations. Under no circumstance may the homeowner force the Builder to provide alternate compensation.

Repairs Done Outside of the Warranty

Each Builder differs in their level of customer service and willingness to make certain repairs that exceed the parameters of the Warranty. Some Builders go way beyond the Warranty and fix items that are clearly excluded, such as driveways, screw pops, dings and dents, cosmetic issues, and contractual issues. Note, that should the Builder make these kinds of repairs, they are doing it either 'as a courtesy', or as part of a construction agreement they may have with you. These matters are beyond the Warranty, and we will not assist in the discussion or direction of these repairs. Further, the Program will not complete these kinds of repairs if the Builder initially indicates a willingness to repair and then does not follow through. If you are unclear on which repairs are being done under Warranty and which ones are being done 'as a courtesy', discuss with the Program's Warranty Manager.

Not Covered Under Warranty

The following items are not covered under warranty:

- Uncompleted items (per #5 on the front side of the Possession Certificate). Example: missing window screens, seasonal work such as stucco, flooring that is partially complete. Note, that incomplete items that are eventually completed by the Builder after the Date of Possession do not have any extension in warranty.
- Settlement of contractual disputes between the Builder and Purchaser. Example: missing or incorrect products/materials per the construction contract (wall was painted pink but contract says blue; dual pane windows were installed but contract indicates triple pane).
- As found under section 1 of the Possession Certificate: landscaping, shrubbery, flowers, trees, patios, driveways, garage slabs or carport slabs, sidewalks, retaining walls, wells and attached water systems, septic tanks or fields, detached garages or detached carports, or outbuildings.
- Work or materials supplied or carried out by the purchaser/homeowner, or alterations/attempted repairs to alleged defects. (If the homeowner supplied the flooring and it was installed by the builder, there is warranty only on the installation and not on product defects)
- Cosmetic and superficial defects, and quality of workmanship that otherwise is subjected to a matter of opinion rather than a clear evaluation under the building code or Construction Performance Standards.
- Damage to the home arising from or caused by flood, earthquakes, hail, windstorms or any other acts of nature.
- Any exclusions under the Warranty on the backside of the Possession Certificate such as section 3:
 - a) seams in sheet vinyl, carpet, drywall surfaces;
 - b) reflection caused by gloss surfaces, revealing the outline of sectional material below the surface of the material;
 - c) nail pops, seam lines and variations in drywall surfaces;

- d) cracks in plaster, drywall, masonry, stucco and concrete (including basement and garage floors) provided the cracks are within the normal tolerances established by the Program from time to time;
- e) shrinkage or warping of materials, provided the shrinkage or warping is within the normal tolerances established by the Program from time to time;
- f) slab heaving and cracking;
- g) soil subsidence of the land around the building or along utility lines and sewer and water trenches, including subsidence or heaving beneath the footings or piles of the home;
- h) colour variations or surface defects in workmanship or materials apparent and accepted by the homeowner at the date of possession;
- i) damage arising from the failure of the homeowner to maintain the home in accordance with maintenance schedules established by the Program, including, but not limited to:
- j) damage caused by or resulting from dampness or condensation due to the failure of the homeowner to maintain adequate ventilation in the home;
- k) damage arising from the failure of the homeowner to maintain adequate drainage of surface water away from foundation walls of the home and, in particular, from improper maintenance and operation of a sump pump;
- l) damage arising from the failure of the homeowner to adjust teleposts to allow for normal shrinkage of wooden structural members and movement of concrete footings or pads.
- m) defects in materials, appliances, design or workmanship supplied by the homeowner, or defects in alterations or materials supplied by the homeowner;
- n) all matters directly or indirectly arising from or related to environmentally harmful substances or hazards, deleterious substances, mold or toxic materials on, in or about the residential unit regardless of the party responsible.

Warranty Claim - Letter of Authorization

I/We, _____ of _____,
OWNER NAME(S) ADDRESS

have initiated a warranty claim under the New Home Warranty Program of Manitoba Inc., Enrollment Number _____. I/We wish to provide authorization to the following 3rd party (Per: 3rd Party Contact Details) to discuss, provide direction, and share personal details on all matters relating to the home and the warranty claim on the home. This person shall be the main contact for all matters relating to this claim, and we understand that it is not the responsibility of the Program to copy to us or make us aware of any verbal or written correspondence made with this person, including any outcomes concerning our warranty claim.

3rd Party Contact Details

Name _____ Email _____

Phone _____ Address _____

I/We, hereby authorize the above person to act fully upon my/our behalf and assign any and all rights and responsibilities under the terms of warranty that are attributed to the homeowner.

SIGNED _____ DATED _____