

Case Law On Negotiable Instrument Act, Sec:- 138

The Serving Notice Under N.I. Act

1. It appears to us that the purpose of the notice as contemplated in clause (b) of the provision to sub-section(1) of the section of the Act, 1881 us to give the drawer of the cheque (s) a change yo make the payment of the amount of the money of such cheque(s). | **32 BLD(AD) 214**
2. The object of issuing notice indicating the factum of dishonor of the cheque is to give an opportunity to the drawer to make the payment within 15 days, so that it will not be necessary for the payee to proceed against in any criminal action, even though the bank dishonored the cheque. | **(2001) 10 SCC 631**
3. The object of notice is to give a cheque to drawer of the cheque to rectify his omission and also to protect and honest drawer. | **(1999) 8 SCC 221**
4. Notice comeback unserved. But the facts and circumstances revealed that the drawer left the residence in order to avoid service of notice. Notice is deemed to have been served. | **2000 CrLJ 3614(Ori)**
5. It is quite common that a notice sent by registered post come back to the sender with postal peon's endorsement "address not found" or "address not available" where it is proved that the notice is returned "unclaimed" due to evasion of service by the drawer when tendered at the correct address, that can be treated as service. | **1 KLT 629**
6. When the legislature contemplated that notice in writing should be given to the drawers, it must be presumed to have been aware of modern devices and equipment already in vogue and also in store for future. As such a demand notice can be sent by Fax, which is a way of sending handwritten or printed or types material as picture by wire or radio. | **4 SCC 567**
7. No form is prescribed for the notice. But there must be demand for payment of the cheque amount in the notice. | **2BC 573 (MAD)**
8. Notice of demand issued to drawer of cheque -- Notice returned with the endorsement, "left not known" -- It will be deemed to have been served -- contention that there was no proper notice rejected. | **2002 Cri.LJ. 1926 (Kant)**
9. `No form is prescribed for the notice. But there must be a demand for payment of the cheque in the notice. | **2 BC 573 (Mad)**
10. Sec 138(b) of Negotiable Instruments Act does not prescribe any form or format for notice and all that is required is the communication which should be in writing sent within 15 days of receipt of information by payee regarding return of cheque as unpaid and payee must demand repayment of amount of cheque. | **4 Crimes 311 (Bom)**
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