## Actions vs. Applications

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| **ACTION** (141-d) | **APPLICATION** (147-d) |
| Every proceeding in court is brought by action, except where a statute or the Rules provide otherwise. | Authorized by Statue   * *Evidence Act, Mortgages Act, Securities Act, CBCA, OBCA,* etc.   Authorized by he Rules   * Administration of estate of execution of trust * Partition of sale of land * Disposition of property of minor * Judicial review * Settlement approval for person under disability * Appoint arbitrator   Authorized by r. 14.05(3)   * Interpretation of deed/will/K/etc. * Remedy under the *Charter* * Declaration of interest in land * No material facts in dispute * etc. |
| * Parties exchange pleadings 🡪 produce documents 🡪 conduct examinations for discovery 🡪 go to trial if no settlement * Every proceeding is brought by action unless otherwise specified 🡪 THEREFORE there must be a specific provision allowing for an application to be brought. | * Judge alone determines questions of law OR mixed fact and law * Usually no live witnesses 🡪 based on affidavit evidence * Applications are made for specific kinds of relief set out in 14.05(3)(a)-(g) * Notice of Application 🡪 Notice of appearance and factum * No documentary discovery or examination for discovery (although witnesses may be examined or cross-examined – R.39) |

**NOTE:** Sometimes the matter can be brought as either an action or application

Simplified procedure does not apply to applications

**What is an Action:**

* Statement of Claim
* Notice of Action
* Counterclaim
* Crossclaim (b/w co-defendants or co-plaintiffs)
* Third or subsequent party claim
* Fourth or subsequent party claim

**What is an Application:**

* Proceeding commenced by a Notice of Application
* Generally no claims for damages