## 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.
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| * 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)
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**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