§ 44A-6.1. Action to regain possession of a motor vehicle or vessel.

(a) When the lienor involuntarily relinquishes possession of the property and the property upon which the lien is claimed is a motor vehicle or vessel, the lienor may institute an action to regain possession of the motor vehicle or vessel in small claims court any time following the lienor's involuntary loss of possession and following maturity of the obligation to pay charges. The lienor shall serve a copy of the summons and the complaint pursuant to G.S. 1A-1, Rule 4, on each secured party claiming an interest in the vehicle or vessel. For purposes of this section, involuntary relinquishment of possession includes only those situations where the owner or other party takes possession of the motor vehicle or vessel without the lienor's permission or without judicial process. If in the court action the owner or other party retains possession of the motor vehicle or vessel, the owner or other party shall pay the amount of the lien asserted as bond into the clerk of the court in which the action is pending.

If within three days after service of the summons and complaint, as the number of days is computed in G.S. 1A-1, Rule 6, neither the defendant nor a secured party claiming an interest in the vehicle or vessel files a contrary statement of the amount of the lien at the time of the filing of the complaint, the amount set forth in the complaint shall be deemed to be the amount of the asserted lien. The clerk may at any time disburse to the lienor that portion of the cash bond which is not in dispute, upon application of the lienor. The magistrate shall:

(1) Direct appropriate disbursement of the disputed or undisbursed portion of the bond; and

(2) Direct appropriate possession of the motor vehicle or vessel if, in the judgment of the court, the plaintiff has a valid right to a lien.

(b) Either party to an action pursuant to subsection (a) of this section may appeal to district court for a trial de novo. (1991, c. 344, s. 2, c. 731, s. 4.)