

This Instruction sheet provides general information only.
You should speak to a lawyer for legal advice about your own situation

BEFORE YOU BEGIN ANY PAPERWORK

Consider discussing this matter with a lawyer

- A lawyer may give you options for solutions that you may not have considered.
- If you do not have a lawyer, you must put in the time and effort. You will be doing the work of a lawyer without a lawyer's training.

GENERAL INFORMATION ABOUT APPEALS

1. An **appellant** is the person appealing a decision of the Provincial Court. The **respondent** is the other party in the original application.
2. An appeal of a Provincial Court decision is brought in the Court of Queen's Bench located in the judicial district where the order to be appealed was made.
3. To appeal, you must do the following **within 30 days of the date the order was made**:
 - order the transcript of the Provincial Court hearing;
 - file the notice of appeal with the clerk of the Court of Queen's Bench; and
 - serve the respondent with a filed notice of appeal.

Only in very rare cases will the court allow an appeal to be started after that time. Note that time runs from when the judge makes the decision, not from when the order is filed.

4. The Court of Queen's Bench will generally not look at new evidence for an appeal. They will only look at the documents that were filed in the Provincial Court in the original application and the transcript of the hearing in Provincial Court.
5. If you believe that circumstances have changed since the order was granted, you should apply to vary or change that order rather than appealing the order.

A. Order the Transcript of the Provincial Court Hearing

6. Contact Transcript Management Services:
 - In Edmonton: John E. Brownlee Building, 5th Floor, 10365-97 Street, phone 780-427-6181.
 - In Calgary: Calgary Courts Centre, Suite 1901-N, 601-5th Street SW, phone 403-297-7392.
 - Outside Edmonton and Calgary: Red Deer Court House, 4909-48 Avenue, phone 403-340-5235.
7. The fee for the transcript will vary depending how long the transcript is. The fee is payable by cash, Visa, MasterCard or debit.
8. Tell the Transcript Management office that the transcript is for the purpose of an appeal, so they can prepare 3 "official copies" of the transcript for filing.
9. You will need a copy of the Request for Transcript form and a receipt when you file the Notice of Appeal as proof that you ordered the transcript.

B. Complete the Notice of Appeal

10. You must describe why you want the decision to be reconsidered in “Grounds on which the appeal is based”:
 - list any errors you think were made in the granting of the order;
 - be specific – just saying the order is “wrong” is not sufficient.

11. Describe what you are asking the Court of Queen’s Bench to do in the “Nature of Order or other relief sought”. The Court of Queen’s Bench may do one or more of the following:
 - confirm the order of the Provincial Court;
 - set aside the order of the Provincial Court;
 - make any order that the Provincial Court could have made;
 - direct the Provincial Court to conduct a new hearing.

C. File and Serve the Notice of Appeal

12. File the Notice of Appeal with the clerk of the Court of Queen’s Bench located in the judicial district where the Provincial Court hearing took place. Provide the clerk with a copy of the Request for Transcript form and the receipt you obtained from Transcript Management Services.

If you do not have lawyer, the clerk of the Court of Queen’s Bench will set an initial appearance date for you and the respondent to attend before a Queen’s Bench Justice (within 40 days of filing the Notice of Appeal) to address any preliminary issues which may need to be decided before the hearing of the appeal.

13. The Notice of Appeal must be served on (given to) the respondent in one of the following ways:
 - personally, by leaving the document with the respondent; or
 - by prepaid registered mail to the respondent’s address for service; or
 - as directed by the Court of Queen’s Bench.Make sure that you record the date and location that each person was served and the method of service used.

14. Prepare and file an Affidavit of Service at the Court of Queen’s Bench.

D. Attend the Initial Court Appearance (if set for you by the clerk)

15. **At the initial court appearance** the Queen’s Bench Justice may:
 - set a date and time for the appeal hearing;
 - provide further direction regarding the manner in which the appeal will be heard; and
 - address any other preliminary matters which may need to be decided prior to the appeal hearing, including the evidence the court may allow the parties to present at the hearing.

You should also be prepared to **give an estimate of the time you will need** to present your position on the appeal hearing date.

E. File and Serve the Transcript

16. Once you receive your copies of the transcript, file the transcript with the Court of Queen's Bench and serve a copy on the respondent.
17. Prepare and file an Affidavit of Service at the Court of Queen's Bench.

IMPORTANT NOTE: If you have not filed and served the transcript within 3 months of filing the Notice of Appeal, your appeal will be dismissed, with or without costs against you, without further notice to you.

F. Scheduling the Appeal Hearing

18. If a Queen's Bench Justice has not already set a date for the appeal to be heard, once the court receives all necessary documents, the clerk will set a date for the appeal and will send out notice of the date to all parties by registered mail at the addresses provided in the Notice of Appeal. **All parties must inform the Queen's Bench Clerk's office of any change of address.**

G. Memoranda

19. No later than noon on the 14th day before the appeal date, the appellant must prepare, file at the Court of Queen's Bench, and serve on the respondent an appeal memorandum setting out:
 - the facts in brief;
 - the relief sought;
 - the argument and authorities on which the appellant intends to rely; and
 - references to the evidence to be discussed.
20. No later than noon on the 7th day before the scheduled hearing date, the respondent must prepare, file at the Court of Queen's Bench, and serve on the appellant an appeal memorandum setting out:
 - the respondent's position on the relief sought by the appellant;
 - any relief sought by the respondent;
 - the argument and authorities on which the respondent intends to rely; and
 - references to the evidence to be discussed.
21. Each party must prepare and file an Affidavit of Service at the Court of Queen's Bench.

H. Attend the Appeal Hearing

22. Bring with you
 - all of your paperwork and documents, including copies of the documents you have filed with the court;
 - pen and paper to take notes.
23. On the appeal hearing date, the Queen's Bench Justice will hear the appeal on the basis of the material filed with or forwarded to the Court of Queen's Bench and any further evidence that the court requires or permits to be given.
24. The Justice may confirm the order (or refusal), set aside or vary the order made, make any order the Provincial Court could have made in the hearing before it, or direct the Provincial Court to conduct a new hearing.

Remember to keep the Queen's Bench Clerk's office informed of any change of address for you or the Respondent(s), as absence of such information may result in you not receiving notice of the hearing date and the appeal proceeding in your absence.

HELP IS AVAILABLE

1. Lawyers

| | | |
|---|---|-----------------------------------|
| Lawyer Referral Service (Alberta) Dial-A-Law | Tel: 403-228-1722 Tel: 403-234-9022 Toll Free: 1-800-661-1095 | Calgary Calgary |
| Legal Aid Society of Alberta | Tel: 403-297-2260* Tel: 780-427-7575* | Calgary Edmonton |
| Alberta Law Line | Toll Free: 1-866-845-3425 Tel: 780-644-7777 | Edmonton |

2. Family Justice Services

| | | |
|---------------------------------------|--|--|
| Family Law Information Centres (FLIC) | Tel: 403-297-6981* Tel: 780-415-0404* Tel: 780-833-4234* Tel: 403-388-3102* Tel: 403-755-1468* | Calgary Edmonton Grande Prairie Lethbridge Red Deer |
| Family Mediation | Tel: 403-297-6981* Tel: 780-427-8329* Tel: 403-340-7187* | Calgary Edmonton Elsewhere in Province |

3. Websites

www.albertacourts.ab.ca
<http://acjnet.org/abservices/legal.aspx>

**** call any of the numbers toll-free through the RITE line by dialing 310-0000***
Check your courthouse for more detailed information about services available in your area.

NOTES
