

APPEALS FROM JUDICIAL REVIEW DECISIONS

INTRODUCTION

Judicial review applications are decided by a judge of the Court of Queen's Bench. See: [[Court Return & Brief, Chapter \(a\)](#)]. If a party wishes to appeal that decision, the *Alberta Rules of Court* permit an appeal to the Court of Appeal. See: [Rule 753.17]. Sometimes, the Board is the party that appeals a judicial review decision.

The rules governing appeals from judicial review appear in Part 39 of the *Rules of Court*. This policy describes:

- how to start an appeal, including what documents parties must prepare, exchange and file with the Court of Appeal;
- the point when the 20-day period for filing a Notice of Appeal starts to run;
- the rules and practice directions that apply in preparing Appeal Books;
- the rules and practice directions that apply in preparing Factums; and
- the practice directions that apply in preparing a Book of Authorities.

THE APPEAL PROCEDURE GENERALLY

The basic steps in bringing the appeal are:

- The party wishing to appeal (the **appellant**) files a Notice of Appeal within the 20-day limitation period.
- The parties agree on the contents of the Appeal Book. If necessary, a judge fixes the contents, by order.
- The appellant prepares and provides copies of the **Appeal Book** to the Court and the **respondents**.
- The appellant prepares and provides copies of its **factum** to the Court and respondents. The respondents then prepare, file and circulate their factums.
- The Court hears and decides the appeal.

NOTICE OF APPEAL

The 20-day appeal period runs from the day the Queen's Bench order is **entered** and **served** on all parties. The party wishing to bring the appeal usually reduces the order to writing, enters it with the Court, and serves it on the other parties.

The appellant must file the Notice of Appeal with both the Clerk of the Court of Queen's Bench, and the Registrar of the Court of Appeal.

APPEAL BOOK

After filing the Notice of Appeal, the appellant sets out its proposal for the contents of the **Appeal Book**. The Appeal Book must contain all materials necessary for the Court to make its determination, but excludes unnecessary documents. Its purpose is similar to that of the Return used in the Queen's Bench judicial review proceeding. See: [[Court Return & Brief, Chapter 36\(a\)](#)].

The respondents must advise the appellant of any parts of the proposal with which they do not agree. Otherwise, the *Rules of Court* deem the parties to agree to the proposed contents. If all parties cannot agree, a judge of the Court of Appeal will fix the contents by Order. Usually, parties reach their own agreement.

Rules 530-537 set out the materials the appellant includes, and how to prepare the Appeal Book. If the appellant does not meet these requirements, the Registrar may and most likely will, refuse to accept the Appeal Books.

A **practice direction note**, from the Chief Justice of the Court of Appeal, also contains requirements for preparing Appeal Books. The *Consolidated Practice Directions of the Court of Appeal* appear in the *Rules of Court* binder. These directions are not part of the legislated *Rules* but instead, are confirmed by the Chief Justice under a power to regulate court procedures. See: [*Section B: Appeal Books* in the *Consolidated Practice Directions*].

The appellant files the Appeal Books with the Court and provides copies to the other parties. The Registrar sets the case down for hearing. An appeal case is set for hearing in a particular **sitting** or session, of the Court of Appeal.

FACTUMS

The *Rules of Court* set time limits for each party to file its factum with the Court and provide copies to the other parties. The requirements for factum preparation appear in Rules 538-543 of the *Rules of Court*. The appellant's factum states the facts about the case, the grounds for the appeal, and the points of law and legal authorities relied upon. Respondent factums respond to these points.

The Registrar rejects factums that do not comply with the *Rules of Court*. A factum must also satisfy the requirements in the *Consolidated Practice Directions of the Court of Appeal of Alberta*. See: [*Section C: Factums* in the *Consolidated Practice Directions*].

BOOK OF AUTHORITIES

Each party is responsible for providing the Court with a copy of the legal authorities it referred to in its factum. Legal authorities include materials such as Board and Court decisions, statute references, and textbook citations.

The *Consolidated Practice Directions* set guidelines for preparing a Book of Authorities. The guidelines encourage parties to produce a joint book, to avoid unnecessary duplication. See: [*Section D: Book of Authorities* in the *Consolidated Practice Directions*].