

# COURT DECISIONS

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## INTRODUCTION

The Board is a frequent participant in court proceedings. It receives decisions from the Courts and often publishes the Courts' decisions to complete the public record of the Board's cases. This policy describes:

- kinds of Court decisions;
- release of Court decisions; and
- publication of Court decisions.

## KINDS OF COURT DECISIONS

The kinds of decision given by the Courts varies somewhat with the level of Court (Queen's Bench, Court of Appeal, Supreme Court of Canada). Generally there are four kinds of decision that a Court may give.

### ***Oral Judgment, Unrecorded***

Judges often speak their judgment directly from the Bench. Usually the judge gives this kind of decision immediately after closing arguments from counsel. The judge normally delivers a oral judgment from personal notes which may be recorded by the Court. Counsel take their own notes of what the judge says to report to their clients and help prepare the Order.

The *Order* is a document prepared by counsel after they receive the judgment. It records the result of the judgment, not any reasons given by the judge. The successful counsel may file the Order directly if all counsel present agree to its contents. If there is disagreement, the presiding judge may settle what the terms of the Order should be. There is no official, permanent record of an unrecorded oral judgment other than the Order filed with the Clerk of the Court.

Judges often give unrecorded oral judgments where they see the issues before them as straightforward and see no need for extended reasons. Many judicial review applications are decided orally.

### ***Oral Judgment, Recorded***

A judge may deliver a decision orally but instruct the presiding Clerk to tape record the decision. A judge may do this where a permanent record of the reasons behind the decision might be helpful, but written reasons are not practical. Judges wishing to deliver recorded oral reasons usually recess at the close of argument and prepare extended notes or a draft of their reasons.

Where a judge gives a recorded oral decision, it is the responsibility of counsel to secure a transcript of the reasons from the court reporter. If no counsel requests a transcript, no transcript is prepared.

Once prepared and released to counsel, however, a transcript of oral reasons becomes a part of the record on any appeal.

### ***Memorandum of Judgment***

The Court of Appeal disposes of many of its appeals by Memorandum of Judgment. This is usually a short written memorandum (five pages or less) that records the Court's decision and the main reasons behind it. A Memorandum of Judgment is prepared mainly for the benefit of the parties. It assumes familiarity with the facts and the legal issues. It does not set out the facts of the case in any detail, nor does it go into a detailed examination of the law. A Memorandum of Judgment may confirm a decision given orally, or it may be released shortly after the Court has reserved on the case.

### ***Reasons for Judgment***

These are formal written reasons that set out the Court's disposition of a case and offer detailed reasons for the decision. They normally set out the facts of the case in detail, outline the legal issues and argument before the Court, and show the logical process by which the Court reached its decision.

Judges almost never use formal written reasons to confirm oral judgments. They use Reasons for Judgment to pronounce on the more difficult or complicated cases before them, upon which they reserved their decision.

## **RELEASE OF COURT DECISIONS**

The Court of Queen's Bench releases its decisions through the office of the Clerk of the Court. The Court of Appeal issues decisions through the Office of its Registrar. A signed original of the Court's decision goes from the presiding judge to the Clerk or Registrar. The Clerk's or Registrar's office contacts the counsel of record shown on the Court's file to advise that the judgment is being released. They try to advise counsel the day before the judgment's release. If Board counsel is absent from the office, refer such a call to the Chair.

Court judgments must either be picked up in person, picked up by courier, or sent by ordinary mail. In-person pickup or courier pickup are preferred. Staff picking up a judgment should attend at the Clerk's Office for Court of Queen's Bench judgments. In Edmonton this is on the ground floor of the Law Courts Building, behind the elevators. In Calgary the Clerk's Office is on the first level above ground.

Staff can receive a Court of Appeal judgment at the Registrar's Office. In Edmonton this is at the southeast corner of the Provincial Court annex to the Law Courts building. In Calgary Court of Appeal building is closed and Court of Appeal business is run out of the Queen's Bench building.

## TRANSCRIPTS

When a judge gives an oral decision, they might not issue a formal decision. The Board's Legal Counsel will then ask for a transcript of "only the decision portion" of the court hearing.

Transcripts for the Court of Queen's Bench decisions can be ordered through Transcript Management Services:

Transcript Management Services  
7<sup>th</sup> Floor South  
10365 - 97 Street  
Edmonton AB T5J 3W7  
Fax: 422-2826

Transcripts for the Court of Appeal decisions must be ordered by calling the Court of Appeal at Phone: 422-1585 or Fax: 422-4127.

When ordering a transcript, send along a copy of the cover of the Board's Brief, showing action/appeal numbers, parties and advise them of the date and judge hearing the matter.

## PUBLICATION OF COURT DECISIONS

The Board's solicitor, in consultation with the Chair, decides whether to publish a Court judgment in the Board's Reports. Court judgments are published unless they are too cryptic to be useful to readers unfamiliar with the facts of the case. The Board Solicitor prepares index lines and headnotes for published Court decisions, and updates any annotations affected by the decision. Transcripts of court proceedings have been published in the Alberta Labour Relations Board reports.

All Court decisions affecting a Board file, whether they are reported or not, are kept by the Legal Counsel's assistant in binders containing archived materials from the solicitor's files. They are also kept on-line at <g:/process/decision/headnotes/year>.