

Small Claims Appeal Checklist

If you have been to Small Claims Court and you think the judge's decision was wrong, you can appeal it. You cannot appeal a decision just because you disagree with it, you need to provide evidence that an error was made. You can only appeal the decision of an order made after a trial (not interim applications).

An appeal is not a new or re-trial but a review of the original trial using transcripts of the original trial and your Statement of Argument. No new evidence may be presented without the permission of the court.

1. Decide Whether to Appeal

- **Error in law or Error in fact:** An appeal is not a re-trial but a review of the original trial to see if the trial judge made a serious mistake. Do you have clear evidence relating to one or both of these e types of errors?
 - An error in law: Meaning that they misapplied or misunderstood the law, or
 - An error in fact: Meaning that they misunderstood the facts of the case
- **Deadline:** You only have **40 days** to start an appeal after the Small Claims Court order was made. Are you within the time limit?
- **Get Legal Advice:** You don't need a lawyer to appeal a court decision, but it is recommended that you get legal advice if you are thinking about appealing or have received a Notice of Appeal. If you want to find a lawyer, try the [Lawyer Referral Service](#) or [Access Pro Bono](#). Have you considered the following?
 - The complexity of appealing your case in BC Supreme Court
 - Additional costs if you lose or withdraw your claim
 - Application deadlines

2. File Notice of Appeal

- **Get a copy of the Small Claims Court order.** If you do not have the Small Claims order that you are appealing, you can get one from the court registry. There may be a photocopying fee.
- **Complete and file [BC Supreme Court Notice of Appeal form 74](#).** File form 74 at the Supreme Court registry that is closest to where the Small Claims Court order was made.
 - This must be done within 40 days after the Small Claims Court order was made.
 - Attached is the standard set of directions to your Notice of Appeal. The standard set of directions can be found [here](#).

- **Pay the deposit/fees.** It costs \$200 to initiate a Supreme Court proceeding. You must also deposit \$200 as security for costs that the court may order you to pay if you lose or discontinue the appeal. If you win, you will get this back. You may also need to pay the amount of the judgment ordered by the Small Claims Court if the order being appealed required you to pay a sum of money.
 - If you are unable to deposit the security for costs or the amount of judgment as required, you may apply to the BC Supreme Court for an order to reduce these amounts. Any order reducing the amount of security for costs or the amount of judgment must be served personally on each party affected by the appeal.
 - **File a copy of the filed Notice of Appeal at the Small Claims Court registry** on the same day that you filed the Notice of Appeal at the Supreme Court registry.
- 3. Serve the Notice of Appeal**
- **Within 7 days** of filing the Notice of Appeal, you must **personally serve** the Notice of Appeal and the Standard Set of Directions on each party to the Small Claims Court case who will be affected by the appeal.
 - Supreme Court Civil Rule 4-3 - Personal service
- 4. Transcripts**
- **Order and pay for transcripts** within **14 days** of filing the Notice of Appeal. You have 14 days to file your Affidavit of Service and prove that transcripts have been ordered.
 - **File transcripts and serve copies of the transcripts on Respondents** within **45 days** of filing the Notice of Appeal.
- 5. Set Hearing Date and Serve Notice of Hearing**
- **Apply to the Registrar for a date** for hearing the appeal within **14 days** of filing the Notice of Appeal. The date needs to be at least 21 days after applying.
 - **Pay the fee** for this application (\$80).
 - **File the Notice of Hearing of Appeal:** Notice of Hearing of Appeal (Form 75)
 - **Serve the Notice of Hearing of Appeal** on the other party by ordinary service.
- 6. Statement of Argument (Schedule A)**
- **File and serve the Statement of Argument (Schedule A)** within **45 days** of filing the Notice of Appeal. You will need to serve a copy of the filed Statement of Argument on the other party and each person that has filed a Notice of Interest. Apart from the transcript, the Statement of Argument is the main document the appeal judge will consider. You can find Schedule A attached to the Standard Directions.

7. Statement of Argument (Schedule B) – Respondent

- The Respondent to the appeal needs to file their Statement of Argument (Schedule B) and serve a copy on the appellant by ordinary service 14 days before the hearing. You can find Schedule B attached to the [Standard Directions](#).

8. Attend a Hearing

- **Be prepared.** Clearly explain why you think there was an error in fact or an error in law.
- If you are successful in your appeal, the BC Supreme Court justice may allow you to recover your costs as part of the judgment. If you lose or discontinue the appeal, there may be additional costs awarded against you.