

## Appeals at the Court of Appeal of Alberta

### A. What is an appeal?

At the conclusion of a proceeding in a lower court (such as the Court of Queen's Bench of Alberta) or at an administrative tribunal (such as the Criminal Injuries Review Board), the party who lost may want to have that decision reviewed by a higher court in the hope that it might be reversed or changed. In such cases, an "appeal" is brought to the Court of Appeal, the highest court in Alberta.

The person who brings the appeal is called the appellant. The person who responds to the appeal is called the respondent.

**You must understand that an appeal is not a new trial or a rehearing of your case.**

### B. What an appeal is not

An appeal is not:

- a new trial,
- a hearing with witnesses or a jury,
- a chance to present new evidence or new witnesses to a new judge, except in exceptional circumstances, or
- a way to avoid complying with a court order or decision.

The Court of Appeal will not hear an appeal of every case. Even if the Court of Appeal hears your appeal, it will not:

- re-hear your case from start to finish,
- change the decision because it seems unfair, or
- change the decision just because the Court of Appeal disagrees with it. (The decision must be incorrect due to a factual or legal error.)

**In summary, for an appeal to be successful, you must show that the previous decision-maker made a factual or legal error that affected the outcome of your case. An appeal is not a new trial or re-hearing of your case.**

### C. Preliminary considerations

*Is the Court of Appeal the right court?*

Not all appeals are brought to the Court of Appeal. Depending on the nature of the case, some appeals are heard in the Court of Queen's Bench of Alberta. For example, all of the following types of matters are appealed to the Court of Queen's Bench:

- Provincial Court decisions made in a civil matter (i.e., small claims court),
- Provincial Court decisions made under the *Family Law Act*,
- Provincial Court decisions made under the *Child Youth and Family Enhancement Act*,
- Provincial Court decisions made under the *Residential Tenancies Act*,

- Decisions made by a Master of the Court of Queen’s Bench, and
- Convictions made with respect to summary convictions offences heard in the Provincial Court, including traffic offences.

#### *Is permission to appeal required?*

There is not always an automatic right to appeal. Even if the Court of Appeal is the right court, you may still require permission to appeal. Rule 14.5 (Civil) and Rule 16.4 (Criminal) of the [Alberta Rules of Court](#) sets out when permission to appeal is required. You should review the rules carefully and speak with a lawyer to determine whether permission to appeal is required. Court staff cannot tell you whether permission to appeal is required or give you legal advice. To obtain permission to appeal, you must file an application and, for civil matters, pay an application fee.

#### *Time period to appeal*

The time limit for filing a **civil notice of appeal** is addressed in Rule 14.8 of the [Alberta Rules of Court](#). Generally, the time limit for filing a notice of appeal is 1 month from the day that the order or judgment appealed from is pronounced (i.e., from the date that the judge stated who won the case, not the date that the order or judgment was “filed”, “entered”, or “served”).

The time limit for filing a **criminal notice of appeal** is addressed in Rule 16.7 of the [Alberta Rules of Court](#). Generally, the time limit for filing a notice of appeal is 1 month from the day that the decision being appealed was made or 1 month from the date of sentencing.

If permission to appeal is required and has been obtained, a notice of appeal must be filed within 10 days after permission to appeal is granted.

There are some exceptions to these time limits. Court staff cannot calculate these time limits for you or tell you what those exceptions are. It is your responsibility to determine what your time limit is. You should consult with a lawyer. If the date falls on a weekend or a statutory holiday, you may file the notice of appeal on the next business day. If you have missed your time to appeal, talk to a lawyer to determine whether the time limit can be extended.

#### **D. General information about appeals**

- Appeals are very different from trials or applications. They can be a complex mix of research, writing and oral advocacy skills. Transcripts can be expensive, and costs can be ordered against you if the appeal is unsuccessful. You should talk to a lawyer before making the decision to appeal.
- If you decide to appeal, read and become familiar with the [Alberta Rules of Court](#) (especially Part 14 for civil appeals and Part 16 for criminal appeals), the [Court of Appeal Consolidated Practice Directions](#) and any legislation that may be applicable to you.
- Appeals of decisions made in jurisdictions north of Red Deer are filed in Edmonton. Appeals of decisions made in jurisdictions in or south of Red Deer are filed in Calgary.

- Filing an appeal will not automatically stay (stop) enforcement of the order or judgment that you are appealing. To stay an order or judgment, you must file an application and, for civil matters, pay an application fee.
- If circumstances have changed since the order or judgment was made, you should consider applying to the court where the original hearing took place to vary the order or judgment instead of appealing it.

#### **E. How much does it cost to file an appeal?**

The filing fee for a civil notice of appeal is \$600.00. A list of all fees can be found on the Court's website under Registry > Filing, Fees and Forms.

There is no filing fee for a criminal notice of appeal.

You must order and pay for transcripts and prepare an appeal record. Those costs can be several hundreds of dollars and sometimes more.

#### **F. Steps to appeal a decision**

1. For a civil matter, complete the Civil Notice of Appeal (Form AP-1). For a criminal matter, complete either the Notice of Criminal Appeal – Self-Represented Appellant (Form CRA-A) or Notice of Criminal Appeal (Form CRA-B). Templates for these forms can be found on the Court's website under Registry > Filing, Fees and Forms.
2. File and serve the notice of appeal within your time limit.
3. Contact Transcript Management Services to order the transcript from the original court hearing. At the same time, order the appeal record from [Transcript Management Services](#) (or any other commercial preparer) or decide to prepare it yourself. If you decide to prepare the appeal record yourself, read and become familiar with Rules 14.18-14.22 (Civil) and Rules 16.12-16.15 (Criminal) of the [Alberta Rules of Court](#).
4. File and serve the transcript and the appeal record within the required deadline. If you miss the deadline, your appeal will be struck (unless, in a criminal matter, the appellant is in custody). Refer to Rules 14.16 and 14.17(Civil) and Rule 16.12 (Criminal).
5. Prepare, file and serve a factum (written argument) within the required deadline. If you miss the deadline, your appeal will be struck (unless, in a criminal matter, the appellant is in custody). Refer to Rules 14.23 and 14.24 (Civil) and Rule 16.16 (Criminal).
6. Wait for receipt of the respondent's factum.
7. Except for sentence appeals, determine a date for the oral hearing of the appeal in consultation with the Case Management Officer. (Sentence appeals are scheduled pursuant to Rule 16.22.)
8. If necessary, attend the Unscheduled Civil Appeals List or the Unscheduled Criminal Appeals List.
9. Attend the appeal hearing.

10. Once the court gives its decision, unless otherwise ordered, the successful party is responsible for preparing the Judgment that sets out that decision.

**G. Related Information**

[Alberta Rules of Court](#)

[Consolidated Practice Directions](#)

[Civil Appeal Flowchart](#)

[Criminal Appeal Flowchart](#)

[Information Sheets](#)

[Mandatory Requirements and Check/Return Forms](#)