



Effective Date: 2010/07/01

Number: PD - 21

Title:

Practice Direction

Standard Directions for Appeals from Provincial Court - *Small Claims Act*

Summary:

Section 5 of the *Small Claims Act* provides for an appeal to the Supreme Court from an order of the Provincial Court. Supreme Court Civil Rule 18-3 provides that a notice of appeal must include the standard set of directions in the form directed by the Chief Justice governing the conduct of the appeal. These are the standard directions governing the conduct of an appeal from the Provincial Court under section 5 of the *Small Claims Act*.

Direction:

Deposit

1. The appellant must deposit \$200 as security for costs as required under section 8(1) of the *Small Claims Act* before or at the time the Notice of Appeal is filed with the court, along with any amounts required under section 8(2), unless the court otherwise orders.

Documents to be filed and served

2. A Notice of Appeal in Form 74 must be filed with a copy of these directions attached.
3. After filing the Notice of Appeal, the appellant must:
 - a. serve the Notice of Appeal on the respondent(s) by personal service
 - b. order and pay for a copy of the transcript of:
 - i. the oral evidence given at the hearing in the Provincial Court
 - ii. the reasons for judgment of the Provincial Court.
4. It is not necessary for the appellant to serve the Notice of Appeal on the Provincial Court.

5. If the respondent wishes to oppose the appeal and to receive notice of the hearing date, he or she must:
 - a. file a Notice of Interest in Form 70 within 7 days after service of the Notice of Appeal
 - b. promptly serve a copy of the filed Notice of Interest on the appellant by ordinary service.
6. Within 14 days after filing the Notice of Appeal, the appellant must:
 - a. file proof, satisfactory to the registrar, that
 - i. the Notice of Appeal has been served on the respondent(s)
 - ii. the required transcript has been ordered
 - b. request a date for the hearing of the appeal from the Registrar
 - c. file a Notice of Hearing in Form 75
 - d. serve, by ordinary service, a Notice of Hearing on any person who has filed a Notice of Interest.
7. Within 45 days after filing the Notice of Appeal, the appellant must:
 - a. file the original transcript with the court
 - b. serve, by ordinary service, a copy of the original transcript on any person who has filed a Notice of Interest
 - c. file a statement of argument in Schedule A , and
 - d. serve, by ordinary service, a copy of the statement of argument on any person who has filed a Notice of Interest.
8. Within 14 days before the hearing of the appeal, a person(s) who has filed a Notice of Interest must:
 - a. file a statement of argument in Schedule B , and
 - b. serve, by ordinary service, a copy on the appellant.

Appeal disposed of summarily

9. If the appellant fails to file the deposit or any proof or documents required under this direction, within the time limits prescribed by this direction, the respondent may apply for an order:
 - a. to dispose of the appeal summarily pursuant to Supreme Court Civil Rule 18-3(7), or
 - b. that the order under appeal is no longer suspended pursuant to section 9(2) of the *Small Claims Act*.

New evidence

10. No new evidence may be adduced at the appeal without leave of the court.

Robert J. Bauman
Chief Justice

Schedule A

No. _____
Registry _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

APPELLANT

AND:

RESPONDENT

APPELLANT'S STATEMENT OF ARGUMENT

STATEMENT OF FACTS: The facts of this case are as follows:

(This section must consist of a clear statement, in numbered paragraphs, of the relevant facts of the case making reference for each fact to the reasons for judgment or to the page and line numbers of the transcript.)

ISSUES ON APPEAL: The appellant agrees with the order appealed from except as follows:

(This section must consist of a clear statement, in numbered paragraphs, that sets out in what respect the order appealed from is in error.)

ARGUMENT: The order appealed from is in error because:

(This section must set out, in numbered paragraphs, the argument why the order is alleged to be in error including the points of law or fact with a reference to the exhibit or page and line numbers of the transcript and the authorities in support of each point.)

NATURE OF ORDER SOUGHT:

*(This section must set out the order the appellant wishes the court to make including any special order as to costs and payment out of monies paid into court pursuant to section 8 of the **Small Claims Act**).*

Date:[dd/mmm/yyyy].....

.....

Signature of filing part(ies) or counsel

.....[type or print name].....

Schedule B

No. _____
Registry _____

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

APPELLANT

AND:

RESPONDENT

RESPONDENT’S STATEMENT OF ARGUMENT

STATEMENT OF FACTS: The respondent’s position with respect to the appellant’s statement of facts is as follows:

(This section must consist of a clear statement, in numbered paragraphs, of the respondent’s position with respect to the appellant’s statement of facts together with a clear statement of any other facts that the respondent considers relevant making reference for each fact to the reasons for judgment or to the page and line numbers of the transcript.)

ISSUES ON APPEAL: The respondent’s position with respect to the appellant’s statement of the issues on the appeal is as follows:

(This section must consist of a statement, in numbered paragraphs, of the respondent’s position with respect to the issues as stated by the appellant.)

ARGUMENT: The respondent disagrees with the appellant’s argument because:

(This section must set out, in numbered paragraphs, the respondent’s argument as to why the order sought by the appellant should not be made including the points of law or fact with a reference to the exhibit or page and lines of the transcript and the authorities in support of each point.)

NATURE OF ORDER SOUGHT:

*(This section must set out the order the respondent wishes the court to make including any special order as to costs and payment out of monies paid into court pursuant to section 8 of the **Small Claims Act.**)*

Date:[dd/mmm/yyyy].....

.....
Signature of filing part(ies) or counsel

.....[type or print name].....