

## Appeals

### What is an appeal?

At the conclusion of a proceeding in a lower court, such as the BC Supreme Court, 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 made to the Court of Appeal, which is the highest court in BC.

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

### 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 the trial court’s order.

The Court of Appeal will not hear an appeal of every case. In some cases, you must ask the permission of the Court to appeal through a process called “[leave to appeal](#)”. 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 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.**

### Different Routes to Appeal in BC

If any appeal goes far enough, it will end up in the Court of Appeal (except for those going through the federal system), but how they get there depends on the subject of the case and where they start.

Civil Resolution Tribunal (CRT):

- Small claims matters go to the Provincial Court for a new process under Small Claims Court procedures.
- Motor vehicle injury claims and strata decisions go to Supreme Court for Judicial Review

Provincial Court:

- Small Claims Court: Orders made by a judge after a trial in Small Claims Court can be appealed to Supreme Court.
- Family Court: Final orders can be appealed to the Supreme Court.
- Criminal Court:

- Summary offences or sentences from Provincial Court are appealed to the Supreme Court.
- Indictable offence convictions or sentences are appealed to the Court of Appeal.
- Bail decisions on either indictable or summary offences can be reviewed in the Supreme Court.

Supreme Court: Final decisions can be appeal to the Court of Appeal.

### **Do you have a right to appeal?**

Most trial decisions from the BC Supreme Court can be automatically appealed to the BC Court of Appeal. (See [ss. 6 – 8](#) of the *Court of Appeal Act*.)

The Court of Appeal may hear an appeal from all BC Supreme Court decisions automatically except for those orders listed in [s. 2.1](#) of the *Court of Appeal Rules*, which are known as [limited appeal orders](#).

Limited appeal orders include:

- orders arising from case planning conferences or trial management conferences;
- orders that grant or refuse extensions of time;
- interim orders under the *Family Law Act*;
- an order as to costs only; or
- a foreclosure order.

You cannot appeal a decision from the family or small claims court (in Provincial Court) directly to the Court of Appeal without filing an appeal to the Supreme Court first.

You may only appeal some decisions by BC administrative tribunals or others made by provincial or federal bodies. Usually those decisions must first be reviewed by the BC Supreme Court, unless the statute that created the tribunal says otherwise. You must read the applicable statutes to understand how to appeal a decision and the procedural timelines that you must follow. (See [Rule 16-1](#) of the Supreme Court Civil Rules).

If the appellant does not have an automatic right to appeal, he or she must make an application to the court to obtain leave (permission) to appeal. Section 2.1 on how to start an appeal discusses how you obtain leave (permission) to appeal.

### **Administrative Tribunals & Judicial Review**

Administrative tribunals have their own rules and may have internal review processes that you have to go through before you can head to a court. For some administrative tribunals, their decisions can be appealed to the Supreme Court of BC (or the Federal Court for federal administrative tribunals) through a process called “judicial review”. The fact that you do not agree with the tribunal’s decision is not a reason that entitles you to review by the court – you must show that the tribunal’s process was flawed or that the adjudicator made an error of law, jurisdiction, or fairness.

If judicial review is an option, the court cannot “second guess” the tribunal and make its own decision. The court can only review the process the tribunal used to reach its decision and any mistakes the tribunal made when applying the law or deciding that it had the authority (jurisdiction) to hear the case. The court may also set aside a tribunal’s decision if it is clear that the tribunal breached its duty to be fair.

**Law – Grade 12**  
**Appeals - Background**



In general, the courts are reluctant to reverse a tribunal's decision where the tribunal adjudicators had highly specialized expertise or knowledge that the court does not have, as long as the tribunal has acted appropriately and considered the relevant evidence. To learn more, read the Supreme Court Guidebook called "[Judicial Review](#)".