

PART 14: CIVIL APPEALS TO KING'S BENCH

What this Part is about: This Part describes how an appeal of an order or decision of a provincial court judge dealing with civil (non-criminal) matters may be heard by a judge of the Court of King's Bench.

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PART 14: CIVIL APPEALS TO KING'S BENCH

Appeal by motion

14-1(1) A civil appeal from an order or decision of a provincial court judge to a judge in chambers must be made by originating application that:

- (a) states briefly the grounds of appeal; and
 - (b) is returnable within 30 days after the decision being appealed or any further time that a judge may allow.
- (2) The originating application must be served on all parties directly affected but it is not necessary to serve parties who have not appeared in the action or proceeding unless the Court orders otherwise.
- (3) If service of the originating application is not required, the originating application must be filed with the local registrar within the time limited for appealing or within any further time that a judge may allow.

Appeal not a stay

14-2 Unless the enactment pursuant to which the appeal is taken provides otherwise or a judge orders otherwise, an appeal from a provincial court judge's decision does not act as a stay of proceedings.

Evidence

14-3(1) An appeal from a provincial court judge's decision may be heard in chambers or in court.

- (2) Unless provided otherwise in the enactment pursuant to which the appeal is taken:
- (a) if a judge considers that it would not be prejudicial to either party to do so, the judge may dispense with production of the evidence, if any, submitted to the provincial court judge; and
 - (b) the judge appealed to may:
 - (i) receive further evidence, by oral examination, affidavit or otherwise as the judge may allow; or
 - (ii) hold a hearing by way of a new trial.

