

Form 1: Notice of Appeal

The Notice of Appeal is the document which starts an appeal. It is required under rule 8 of the *Court of Appeal Rules*. The purpose of the Notice of Appeal is to provide the Court and the other parties with notice that an appeal has been started as well as a description of the lower court order being appealed and the contact information of the persons involved in the appeal. The Notice of Appeal should be completed with this purpose in mind.

Check rule 8(2) for the filing deadlines for the Notice of Appeal. Generally, you have 30 days to file the Notice of Appeal unless you are appealing before the lower court trial is over, in which case you have 10 days.

On the form:

Fill out the following:

The heading: If the matter involves a child in accordance with rule 9(1), insert the words THIS MATTER INVOLVES A CHILD between the name of the Court and the style of cause.

If the matter is subject to a ban or restriction on publication specify which in the top left hand corner between the name of the Court and the style of cause. If not, remove these words. A ban on publication or restriction on access is not automatic and must be provided for in a statute or the lower court must have ordered it.

The style of cause: The “style of cause” is the information on the page that identifies the Court and the parties in the case. If you are appealing an order put your name in the space provided at the top of the page next to “Appellant”. The other party is the “Respondent”. If there are more parties, list them as extra Respondents.

(1) Information regarding order under appeal: Provide as much information as you can. Note, an appeal to the Court of Appeal usually comes from the Supreme Court of Newfoundland and Labrador. If you are appealing the order of the Provincial Court or a Board or Tribunal, check that you may appeal to the Court of Appeal without first making an application to the Supreme Court. If you believe you may appeal, modify the form by listing information about the order of the lower court or tribunal from which you are appealing:

- a) Justice who made the order: Name the Justice who made the order. The following are all proper ways of referring to Justices of the Supreme Court:

Doe J.
Mr. Justice Doe
Madam Justice Doe

Judge (Name) or (Name) P.C. J. is appropriate when referring to Judges of the Provincial Court.

Member (Name) is appropriate for referring to an administrative decision maker, for example a Board or Tribunal.

- b) Location where the matter was heard: City or town where the decision you are appealing was made.
- c) Lower court file no.: Give the file number, also known as the docket number. It will appear on any documents you have from the lower court.
- d) Neutral citation of a written decision, if any: Give the neutral citation on the decision – it should be in the top left corner of the first page of the decision. It usually looks something like this:

201# NLTD(G) ## (Trial Division, General)

201# NLTD(F) ## (Trial Division, Family)

201# NLPC ## (Provincial Court)

201# NLCA ## (Court of Appeal)

- e) Date the order was filed or made: Give the date the order was filed. If the decision maker does not provide for an order, give the date the order was made.

(2) Subject matter of appeal: (*Give a brief summary of what the appeal is about and what the issues are*):

Briefly explain your reasons for the appeal. Try to explain why you will argue the lower court reached the wrong decision. This part of the Notice of Appeal does not need to be lengthy, as you will have the opportunity to fully argue your appeal in your factum. However, it assists the Court and the other parties to know the background of the case and the general nature of the errors you say the lower court made.

(3) What the Appellant requests (*set out what order the Appellant is seeking*):

Write what you are asking the court to do. Note that an appeal is not a new hearing on the merits of the case. The Court of Appeal may substitute its decision for that of the lower court, but only in cases where the Court finds that the lower court made an error.

(4) The Court and the parties are advised that (*include any of the following that are relevant*):

(a) Only a portion of the order is being appealed – specify the portion

(b) This is an appeal in an uncompleted matter. It is appropriate to proceed at this time because (*specify reasons*)

An uncompleted matter is defined in rule 7. Note: It is generally undesirable to have multiple ongoing proceedings. Unless there is a good reason to proceed with the appeal (i) the Respondent may challenge the appropriateness of proceeding before the trial is completed, and (ii) the Court may refuse to hear the appeal until the trial is completed.

(c) The Appellant is asking that the appeal be expedited because (*specify reasons*)

If you are asking for the appeal to be expedited (heard faster than normal), specify why (see rule 8(4)(g)). This request should only be made if there are circumstances that would justify expediting your appeal. The Court will not expedite every case.

(d) The constitutionality or legality of the following provision of an Act, regulation or rule will be challenged in the appeal (*specify the relevant provisions*).

If you are arguing that a law is unconstitutional, specify which one. Note that you will be required to give notice to the Attorney General in Form 10 (see also rule 29).

(e) The court appealed from imposed a publication ban or restriction on access (*Attach a copy of the publication ban if one is available or quote the language of the publication ban or restriction on access.*)

(f) This appeal involves the custody of, access to, protection of, support for or responsibility for a child. (*Also, see requirement for style of cause under rule 9(1).*)

(g) This is a tribunal appeal to which rule 10 applies.

This will apply if the proceeding in the Court below was a judicial review of the decision of a board or tribunal.

(h) This appeal involves a challenge to a previous decision or legal principle stated by the Court (*describe briefly*).

Include this section only if on appeal you are arguing that a case previously decided by the Court is wrong in its statement of the law. Do not include this if a case is distinguishable (usually because there is a significant difference between the facts or context of the two cases).

(5) Date and sign the Notice of Appeal.

Important Please provide accurate contact information about where the Court and the other parties may reach you. If your contact information changes, please update the Court.

* Note: If there is some reason why you cannot provide the contact information, see rule 8(5).