

**COURT OF APPEAL RULES
PRACTICE NOTE – CIVIL PROCEEDINGS**

CAPN No. 2018-07

STAYING AN ORDER PENDING APPEAL

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The following Practice Note was filed with the registrar of the Court of Appeal and is published under rule 4 of the *Court of Appeal Rules*.

Background

Filing a notice of appeal does not operate to stay the enforcement of an order under appeal, except in specialized proceedings pursuant to a statute, such as in bankruptcy. A party wishing to stay the enforcement of the order pending appeal must make an application. There are two options: (1) an application to the Court of Appeal, or (2) an application in the Supreme Court of Newfoundland and Labrador.

Practice Note

1. A party seeking to stay the enforcement of an order under appeal must make a choice to apply to either the Court of Appeal or the Supreme Court of Newfoundland and Labrador.

2. If a party chooses to apply directly to the Court of Appeal for a stay (option 1), and the application is heard by a single judge, a party may seek leave of the Chief Justice to have the matter reheard by a panel of judges (rule 31).

3. Where the Court of Appeal has made an order granting or refusing a stay, and there is a change in circumstances, a party may apply for a review of the order based on that change.

4. If an application to stay the enforcement of an order under appeal is made in the Supreme Court of Newfoundland and Labrador (option 2), that decision may be *appealed* to the Court of Appeal. In that case, *leave to appeal* is required.

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