

## PRACTICE DIRECTION

Re: Standard Directions for Appeals from the Provincial Court pursuant to the **Small Claims Act** and Supreme Court Rule 49(3)

This Practice Direction replaces the Practice Direction issued on August 11, 1997. These directions are standard directions as provided for by Rule 49(3) of the Supreme Court Rules.

Appeals brought from the Provincial Court under section 5 of the **Small Claims Act** must be brought in accordance with:

- a) the applicable provisions of the **Small Claims Act**,
- b) Rule 49 of the Supreme Court Rules; and
- c) unless the Supreme Court orders otherwise, the following standard directions.

### Directions

1. The appellant must furnish proof satisfactory to the registrar that the amount required to be deposited under section 8 of the **Small Claims Act** has been deposited when the notice of appeal is filed in the Supreme Court registry.
2. After filing the notice of appeal, the appellant must serve the notice of appeal on the respondent.
3. If the respondent wishes to oppose the appeal and to receive notice of the hearing date for the appeal, he or she must file an appearance in accordance with Rule 49(6).
4. After filing the notice of appeal the appellant must order and pay for:
  - a) a complete transcript of the oral evidence given at the hearing in Provincial Court and of the reasons for judgment of the Provincial Court which transcript must be provided to the court; and
  - b) one copy of the transcript for each party to the appeal.
5. Within 14 days after filing the notice of appeal, the appellant must furnish proof, satisfactory to the registrar, that the transcript has been ordered and that the notice of appeal has been served on the respondent.

6. At the time that the proof required in paragraph 5 above is filed with the registrar, the appellant must request a date for the hearing of the appeal from the Registrar and then file a notice of hearing of appeal.
7. Once the notice of hearing of appeal is filed, the appellant must deliver a filed copy to the respondent at the address for delivery provided in the appearance filed by the respondent.
8. Within 45 days after filing the notice of appeal, the appellant must file the original transcript and serve one copy on each respondent.
9. Within 45 days after filing the notice of appeal, the appellant must file a statement of argument in Form A (attached hereto) and serve one copy on each respondent.
10. A respondent who receives a statement of argument from the appellant must, not later than 14 days before the hearing of the appeal, file a statement of argument in Form B (attached hereto) and deliver a copy to the appellant.
11. If the appellant has not filed proof of service or proof of ordering the transcript, or has not filed the original transcript or a statement of argument, within the time limits prescribed in this Practice Direction, the respondent may apply for an order:
  - a) under Rule 49(5)(e) that the appeal be disposed of summarily; or
  - b) under section 9(2) of the **Small Claims Act** that the order under appeal, or a proceeding to enforce that order, is no longer suspended.
12. No new evidence may be adduced at the appeal without leave of the court.

November 22, 2004



Donald I. Brenner,  
Chief Justice