

Guide for Provincial Offences Act Appeals

Can I appeal a conviction or sentence for a provincial offence?

Your right to appeal a conviction or sentence depends on whether you were charged by a “ticket” or an “information”.

If you were charged by a ticket, you may have the right to appeal the conviction or other order, but not the sentence (fine or reprimand). In order to appeal the conviction or order, you must first get “leave” (permission) from a judge. To get leave, you must satisfy the judge that the conviction or order was based on a legal error; you must explain how the reasoning of the judge or justice who convicted you was incorrect. You cannot get leave to appeal just because you do not agree with the decision to convict you.

If you were default convicted and successfully applied to have the default conviction set aside but you did not attend your new hearing date, you cannot apply for leave to appeal or appeal the offence.

If you were charged by an information, you may appeal the conviction or sentence without obtaining leave from a judge.

Can I represent myself in my summary conviction appeal?

You have the right to go to court without a lawyer to represent you. You will be treated the same as a person who has a lawyer. That is, you will be expected to know the law and follow the court rules. It is recommended you seek legal advice for your situation.

How do I appeal?

The procedure for appealing in the Court of King’s Bench is as follows:

1. Complete an Application for Leave to Appeal and Notice of Appeal.
 - You can download Form 13, the Application for Leave to Appeal and Notice of Appeal, from the [Manitoba Laws website](#) or request a blank form at court office.
 - You will need to attach a copy of:
 - If you were charged on an Information, the Information and disposition sheet which can be obtained from the location where your matter was heard.

- If you were charged by a ticket, the disposition sheet from your ticket, which can be obtained from the location where your matter was heard.
 - You will need multiple copies of the Notice of Appeal package. The original must be filed in the Court of King's Bench. Another must be served on (delivered to) the Crown attorney(s)' office (see below). An additional copy must be presented to the Crown attorneys' office to be stamped to show proof of service. Keep one copy for yourself.
 - Order three copies of the transcript of the proceeding in the Provincial Court and a transcript of the reasons for decision of the Provincial Court judge or justice who convicted and sentenced you: one each for the Appellant (you), the Respondent (Crown) and the Court of King's Bench. Contact Royal Reporting, A Veritext Company; Unit 120–330 St. Mary Avenue, Winnipeg; (204) 306-9149, transcription-mb@veritext.com.
 - There is a fee for the transcript.
 - More information about transcripts and transcript fees is available at manitobacourts.mb.ca/transcripts/.
2. File the Application for Leave to Appeal and Notice of Appeal and proof of the transcript order at the court office **within 30 days** of the date on which your matter concluded. (If you miss this deadline, see below.) You must file the Notice of Appeal in the Court of King's Bench offices listed below that is closest to where the offence occurred.
- The court services fee to file a notice of appeal is listed at <https://www.gov.mb.ca/justice/courts/fees.html>.
3. On the same day that you file your appeal, serve a copy of the Application for Leave to Appeal and Notice of Appeal to the Crown attorneys' office that is closest to the court office where you filed your Notice of Appeal. The locations are listed below.
- An employee of the Crown attorney's office will stamp a copy of your Notice of Appeal with an acknowledgment that it has been served. You must file that "proof of service" in the court office.
 - If the appeal involves a *Charter* argument, you must also serve the Public Prosecution Service of Canada and the Constitutional Law Branch of Manitoba Justice.

What happens next?

You will be notified when the transcript is ready. A copy of the transcript will also be sent to the court office and to the Crown attorneys' office.

When the Crown attorneys' office receives the transcript, you will be contacted by email (or if an email address has not been provided, by registered letter) to discuss next steps.

- If you were charged by a ticket, you will be advised of a date for a first appearance in Motions Court. On that date, you must satisfy the judge that you should be granted leave (permission) to pursue your appeal. If the judge does not grant your request for leave, the matter is concluded. If the judge does grant your request, (s)he may decide the appeal issue at that same appearance. If not, the judge will set due dates for you and the Crown to file written legal briefs with the court.
- If you were charged by an Information, the Crown attorney's office will discuss due dates with you by which you and the Crown attorney will file written legal briefs with the court. If dates cannot be agreed on, you will be given a court date on which to appear so that a judge can provide direction.

Once the briefs have been filed, the Crown attorneys' office will advise you of the date for the hearing of the appeal and will send you a form which must be signed and returned.

What if I missed the deadline for filing a notice of appeal?

If your time to file an Application for Leave to Appeal and Notice of Appeal (or Notice of Appeal if you were charged on an Information) has expired and you meet the legal criteria to obtain an extension, you may file an application for an order extending the time to file the application for leave to appeal. You must attach proof that you have ordered a transcript of the reasons for the decisions made by the Provincial Court judge who convicted and sentenced you. You must also file an Affidavit explaining your reasons for the delay and why you believe there is merit to your appeal.

Copies of these documents must be served on the Crown attorneys' office, and you must file proof of service in the Court of King's Bench office. The forms may be obtained at the Court of King's Bench office. You will be given a date by the court office on which to appear in court for a judge to make a decision about whether to allow you the extension. If the extension of time is granted you will then need to file your Application for Leave to Appeal and Notice of Appeal or your Notice of Appeal following the steps above.

Court of King's Bench filing locations:

Brandon, 100-1104 Princess Avenue
Dauphin, 114 River Avenue West
Portage la Prairie, 20 3rd Street South East
The Pas, 300 3rd Street East
Thompson, 59 Elizabeth Drive
Winnipeg, 408 York Avenue

Crown attorneys' offices for service:

Brandon Crown Office, 204-1104 Princess Avenue
Dauphin Crown Office, 201-101 1st Avenue NW
Portage Crown Office, 229-25 Tupper Street N
The Pas Crown Office, 300-3rd Street E
Thompson Crown Office, 206-59 Elizabeth Drive
Winnipeg Crown Office, 510-405 Broadway

Charter arguments must also be served on:

Constitutional Law Section of Manitoba Justice, 1205-405 Broadway, Winnipeg
Public Prosecution Service of Canada, 515-234 Donald Street, Winnipeg

Bylaw appeals are to be served at the municipal office that charged you with the offence. In Winnipeg, the address for service is the City Clerk's Office, Main Floor, 510 Main Street.