



The Manitoba Court of Appeal

Annual Report

2024 ■ 2025





The Justice sculpture stands at the entrance of the Law Courts Building, 408 York Ave. in Winnipeg. Local artist, Professor Gordon Reeve, is the creator of this massive sculpture.

“Consisting of three ribs or legs, the sculpture is topped by three long arms, each taking a different serpentine form. Capable of moving, these arms are balanced such that they can be set in motion by a visitor with little effort, despite their great weight. The concept draws to mind the metaphoric scales of justice, an image which appears carved in stone at the adjacent historic Law Courts Building (1912-16, 411 Broadway) visible from the site of Justice. At the time, Reeve stated of his work: “I wanted to create a structure to carry the metaphor of justice, one that is responsive to the individual, yet enduring and lasting. My hope is that even a child will make it move.”

(www.winnipegarchitecture.ca/justice/)



THE HONOURABLE MARIANNE RIVOALEN
CHIEF JUSTICE OF MANITOBA

MANITOBA COURT OF APPEAL
COUR D'APPEL DU MANITOBA

L'HONORABLE MARIANNE RIVOALEN
JUGE EN CHEF DU MANITOBA

THE LAW COURTS
WINNIPEG, MANITOBA R3C 0P9

PALAIS DE JUSTICE
WINNIPEG, MANITOBA R3C 0P9

The Honourable Matt Wiebe
Minister of Justice and Attorney General
104 Legislative Building
450 Broadway
Winnipeg, Manitoba
R3C 0V8

Dear Minister Wiebe:

Enclosed please find the Manitoba Court of Appeal's Annual Report for the 2024-25 fiscal year, provided to you in accordance with section 38 of the Court of Appeal Act, CCSM c C240.

Please accept our best regards.

Sincerely,

Original signed by

Marianne Rivoalen
Chief Justice of Manitoba

MR/fp

Table of Contents

Message From Chief Justice Marianne Rivoalen.....	2
About the Court of Appeal.....	4
The Judges of the Court of Appeal.....	5
Justice Freda Steel’s Retirement	7
Law at Lunch for the Three Courts	7
Law Clerkship Program 20-Year Reunion.....	7
Judicial Education Seminar	7
Awards	8
Court of Appeal Visit with the Lieutenant-Governor of Manitoba	9
Rule Changes and Practice Directions.....	9
Rule Changes	9
Practice Directions	9
Statistics.....	10
The Manitoba Court of Appeal Inventory.....	10
Number of Written Decisions Delivered by the Court.....	11
Ratio Between Bench and Reserved Decisions.....	11
Time From Hearing to Release of Decisions.....	12
Average Time for Release of Decisions	13
Appeals by Area of Law	14
Leave Applications to the Supreme Court of Canada from Manitoba Court of Appeal Decisions	15
Former Chief Justice Richard Scott’s Passing.....	16
Closing Remarks.....	16

Message From Chief Justice Marianne Rivoalen



Hon. Chief Justice Marianne Rivoalen

I am pleased to provide to the public and members of the legal profession the Manitoba Court of Appeal's Annual Report for the 2024-25 fiscal year.

The Court of Appeal is the highest court in Manitoba and performs two important roles. First, it reviews lower court decisions and certain administrative tribunal decisions for errors and corrects them when required. In addition, the Court of Appeal settles the state of the law in Manitoba by clarifying the law and setting precedents that must be followed by the lower courts.

Manitoba's system of government is divided into three branches: the *legislative* branch, the *executive* branch and the *judicial* branch.

The *legislative* branch of government creates the laws. In Canada, federal statutes (such as the Divorce Act or the Criminal Code) are conceived and enacted by members of Parliament. In Manitoba, provincial statutes are conceived and enacted by members of the legislative assembly.

The *executive* branch of government in Manitoba is made up of the lieutenant-governor as the representative of the monarch, along with the cabinet presided over by the premier. It also includes all the non-elected individuals who work in various government departments and Crown corporations. The executive branch of government is responsible for the implementation of the laws and the functioning of government.

The Court of Appeal, like the Court of King's Bench and the Provincial Court, forms the third branch of government. The *judicial* branch is independent from the two other branches of government. The judicial branch is responsible for the interpretation and application of the law, which includes the Canadian Constitution, the Charter, various federal laws and provincial laws.

It is the function of the court to hear the cases that come before it and to determine whether an individual's action, a corporation's action or a state's action (no matter the identity of the parties appearing before it) is in conformity with the law. The judiciary's determination is based on law alone, without the overt influence of politics. Judges are knowledgeable, impartial, non-partisan and independent (no matter who nominates them). Judges do not work for government. Judges are civil servants who work independently for the Canadian public.

The Constitution guarantees the principle of judicial independence. Judicial independence has two components: individual and collective.

Individual independence relates to the security of tenure and security of compensation of a judge. It protects individual judges having the freedom to adjudicate cases without influence or fear of reprisal. By protecting judges in this way, it ensures that any dispute entrusted to judges will be decided fairly and impartially, in accordance with the law and evidence, without

Message From Chief Justice Marianne Rivoalen

concern or fear of interference or control by another judge, person, institution, corporation or other branch of government. Judicial independence is the cornerstone of a free and democratic society.

Collective independence relates to the independence of the judiciary as an institution and is intimately tied to the office of the chief justice. In this context, the role of the Court of Appeal, as an institution, can be described as protector of the Constitution and the fundamental values embodied in it – the rule of law, fundamental justice, equality and the preservation of the democratic process.

Independence is not a perk of the judicial office. It is a guarantee of the institutional conditions of impartiality. The protections for judicial independence were created for the benefit of the litigants who appear before the courts, not for the benefit of judges.

The chief justice of Manitoba, in addition to presiding over appeals and managing the administration of the Court of Appeal, has other duties outside of the court. For example, the chief justice serves as the administrator of the Manitoba government and executes the office and functions of the lieutenant-governor during such periods of time when the lieutenant-governor is unable to fulfil that role by reason of absence from the province, illness or other inability. The chief justice of Manitoba is also a member of the Advisory Council of the Order of Manitoba and, as well, is the chair of the King's Counsel Advisory Council of Manitoba. The chief justice of Manitoba is also a member of the appointing board of The Winnipeg Foundation.

During my tenure as chief justice of Manitoba, there are six values that I will strive to protect and promote: independence, impartiality, accountability, representativeness, transparency and efficiency, all through the lens of access to justice for the litigants who appear before the Court of Appeal.

DID YOU KNOW?

The chief justice of Manitoba is also the chief justice of the Manitoba Court of Appeal.

The chief justice of Manitoba has rank and precedence over all other judges of the courts of Manitoba. In terms of precedence in Manitoba, the chief justice of Manitoba is third after the lieutenant-governor and the premier.

About the Court of Appeal

The Court of Appeal was established in 1906 and only sits in Winnipeg. The court hears appeals from the Court of King’s Bench and second-level appeals from the Provincial Court. The court provides opinions on questions referred to it by the lieutenant-governor in council under the Constitutional Questions Act, CCSM c C180. In addition, the court hears, in limited circumstances and as mandated by statute, appeals from professional bodies and some government boards and tribunals, usually when a question of law or jurisdiction is involved and only after leave to appeal has been granted. Finally, the court hears judicial review applications from certain government boards and tribunals.

During the 2024-25 fiscal year, the Court of Appeal was comprised of 13 judges appointed federally pursuant to the Judges Act, RSC 1985, c J-1. Five of the 13 were supernumerary judges. In May 2024, Justice Freda Steel retired from the court, leaving the court with 12 judges, four of whom were supernumerary at the end of 2024-25.

DID YOU KNOW?

The Court of Appeal normally sits in panels of three judges, which constitute a quorum, but occasionally on matters of great importance will convene a panel of five judges.

DID YOU KNOW?

Under the Judges Act, a supernumerary judge is one who elects to give up their regular judicial duties and hold judicial office as a supernumerary judge. A judge may do so after being in judicial office for at least 15 years and having a combined age and number of years of judicial service of 80 or more or after having attained the age of 70 years and at least 10 years of judicial service.



Courtroom 330

The Judges of the Court of Appeal

Judges	Date of Appointment
Hon. Chief Justice Marianne Rivoalen	<ul style="list-style-type: none"> ■ appointed chief justice of Manitoba on May 31, 2023 ■ appointed a judge of the Federal Court of Appeal on Sept. 20, 2018 ■ appointed associate chief justice of the Court of Queen’s Bench (family division) on May 22, 2015 ■ appointed a judge of the Court of Queen’s Bench (family division) on Feb. 2, 2005
Hon. Madam Justice Freda M. Steel	<ul style="list-style-type: none"> ■ retired on May 1, 2024 ■ elected supernumerary status on May 1, 2014 ■ appointed a judge of the Court of Appeal on Feb. 28, 2000 ■ appointed a judge of the Court of Queen’s Bench on Oct. 3, 1995
Hon. Madam Justice Holly C. Beard	<ul style="list-style-type: none"> ■ elected supernumerary status on Jan. 1, 2019 ■ appointed a judge of the Court of Appeal on Sept. 9, 2009 ■ appointed a judge of the Court of Queen’s Bench on Nov. 27, 1992
Hon. Mr. Justice Marc M. Monnin	<ul style="list-style-type: none"> ■ elected supernumerary status on Sept. 1, 2016 ■ appointed a judge of the Court of Appeal on Feb. 3, 2011 ■ appointed chief justice of the Court of Queen’s Bench on March 26, 2003 ■ appointed a judge of the Court of Queen’s Bench on Aug. 27, 1997
Hon. Madam Justice Diana M. Cameron	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on Nov. 2, 2012 ■ appointed a judge of the Court of Queen’s Bench on Feb. 3, 2011
Hon. Mr. Justice Christopher J. Mainella	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on Oct. 1, 2013 ■ appointed a judge of the Court of Queen’s Bench on Oct. 4, 2012
Hon. Madam Justice Jennifer A. Pfuetzner	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on June 19, 2015 ■ appointed a judge of the Court of Queen’s Bench on Oct. 9, 2014
Hon. Madam Justice Janice L. leMaistre	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on June 19, 2015 ■ appointed associate chief judge of the Provincial Court on Sept. 9, 2009 ■ appointed a judge of the Provincial Court on Nov. 22, 2006
Hon. Madam Justice Karen I. Simonsen	<ul style="list-style-type: none"> ■ elected supernumerary status on Oct. 8, 2022 ■ appointed a judge of the Court of Appeal on Aug. 31, 2018 ■ appointed a judge of the Court of Queen’s Bench on Dec. 9, 2004

The Judges of the Court of Appeal

Judges	Date of Appointment
Hon. Madam Justice Lori T. Spivak	<ul style="list-style-type: none"> ■ elected supernumerary status on Sept. 1, 2022 ■ appointed a judge of the Court of Appeal on March 26, 2019 ■ appointed a judge of the Court of Queen’s Bench on May 19, 2005
Hon. Mr. Justice James G. Edmond	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on Aug. 23, 2023 ■ appointed a judge of the Court of Queen’s Bench on Oct. 1, 2013
Hon. Mr. Justice David J. Kroft	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on Aug. 23, 2023 ■ appointed a judge of the Court of Queen’s Bench on Oct. 20, 2016
Hon. Madam Justice Anne M. E. Turner	<ul style="list-style-type: none"> ■ appointed a judge of the Court of Appeal on Aug. 23, 2023 ■ appointed a judge of the Court of Queen’s Bench on June 27, 2019



From left to right (standing):
 Madam Justice Anne Turner, Mr. Justice James Edmond, Madam Justice Karen Simonsen,
 Madam Justice Janice leMaistre, Madam Justice Lori Spivak, Mr. Justice David Kroft

From left to right (sitting):
 Mr. Justice Christopher Mainella, Mr. Justice Marc Monnin, Madam Justice Freda Steel,
 Chief Justice Marianne Rivoalen, Madam Justice Holly Beard, Madam Justice Diana Cameron,
 Madam Justice Jennifer Pfuetzner

Justice Freda Steel's Retirement

On May 1, 2024, Justice Freda Steel retired from the court after 24 illustrious years as an appellate judge and five years as a trial judge. Three events were organized in her honour to coincide with her retirement.

Law at Lunch for the Three Courts

On May 9, 2024, Chief Justice Marianne Rivoalen and the Manitoba Court of Appeal Education Committee hosted a Law at Lunch meeting for the judges of the Manitoba Court of Appeal, the judges and associate judges of the Manitoba Court of King's Bench, and the judges of the Provincial Court of Manitoba. Attendees had an opportunity to hear from Justice Steel who offered reflections from her remarkable career. Thank you to Justice Janice leMaistre, Justice Lori Spivak and Justice David Kroft who helped to organize this event.

Law Clerkship Program 20-Year Reunion

Coinciding with Justice Steel's retirement was the 20-year anniversary celebration of the Manitoba Court of Appeal clerkship program, a program that she helped to establish in 2004 with Prof. Darcy MacPherson of the University of Manitoba's faculty of law.

On May 10, 2024, judges and former student clerks from the past 20 years of the clerkship

program gathered for a luncheon in honour of the program's inception 20 years ago and its ongoing success since that time. The luncheon was jointly hosted by the Manitoba Court of Appeal and the University of Manitoba's faculty of law. Presentations were made by Chief Justice Marianne Rivoalen, Justice Christopher Mainella, Dr. Richard Jochelson, dean of law, and Prof. Darcy MacPherson.

Thank you to everyone who helped to organize this event, including Melanie Bueckert, legal research counsel for the Manitoba Court of Appeal, and Krista Lees, manager, judicial support.

Judicial Education Seminar

On May 10, 2024, the Manitoba Court of Appeal Education Committee held an education seminar for the judges of the Manitoba Court of Appeal entitled This Is How We Do It. The program focused on appellate decision-making, covering topics such as preparing for and chairing hearings, collegiality and working with research staff. Presentations were made by Justice Freda Steel, Justice Janice leMaistre, Justice Lori Spivak and Justice David Kroft.

Thank you to everyone who helped to organize this event, including Justice Janice leMaistre and Justice David Kroft.



PHOTO CREDIT: University of Manitoba, Media Services

Clerkship 20-Year Reunion

Awards

The Court of Appeal congratulates several of its members who received prestigious awards during the 2024-25 fiscal year.

On April 24, 2024, Chief Justice Marianne Rivoalen received the King Charles III Coronation Medal, awarded to those who have made a significant contribution to Canada or to a particular province, territory, region or community of Canada, or have made an outstanding achievement abroad that brings credit to Canada.

In June 2024, Justice Steel and Justice Cameron each received the Jurist of Robson Hall award, given in recognition of exceptional contributions to the University of Manitoba's faculty of law.

Further, in June 2024, Melanie Bueckert, research counsel for the Manitoba Court of Appeal, received the Canadian Bar Association's Louis St-Laurent Award of Excellence, the Canadian Bar Association's highest award that recognizes a lifetime of outstanding service.

In the fall of 2024, Justice David Kroft was awarded the Max and Mollie Shore Award, given annually by the Jewish Federation of Winnipeg in recognition of leadership within and outside the Jewish community.

Congratulations to all the recipients.



PHOTO CREDIT: Tracey Goncalves

King Charles III Coronation Medal Presentation
From left to right: Chief Justice Marianne Rivoalen and Lt.-Gov. Anita R. Neville, P.C., O.M.

Court of Appeal Visit with the Lieutenant-Governor of Manitoba

On Oct. 23, 2024, judges, legal researchers, judicial assistants and registry staff of the Manitoba Court of Appeal attended Government House, where they had the opportunity to tour Government House, meet Lt.-Gov. Anita R. Neville, P.C., O.M., and enjoy coffee and dainties. Attendees brought non-perishable food items with them as part of the Lieutenant-Governor's Sharing Hope Initiative, a program intended to raise awareness of food insecurity throughout Manitoba.



Court of Appeal judges and staff during visit with Lt.-Gov. Anita R. Neville, P.C., O.M. (seated in foreground)

Rule Changes and Practice Directions

Rule Changes

Between April 1, 2024, and March 31, 2025, two major changes were made to the MB, Court of Appeal Rules (Civil), Man Reg 555/88R, by virtue of Man Reg 78/2024. First, Man Reg 78/2024 changed rule 29(3) to indicate that a factum must not exceed 30 pages unless the court or a judge orders otherwise. Second, Man Reg 78/2024 updated rule 43.1 and the filing and service requirements for motions. Specifically, the updated rule imposes new requirements regarding material to be filed in support of a motion, imposes new notice requirements for moving parties and responding parties, and restricts the length of certain materials filed in support of a motion.

Practice Directions

The court's notices and practice directions are available on its website (<https://www.manitobacourts.mb.ca/court-of-appeal/procedure-rules-and-forms/notices-and-practice-directions/>).

Between April 1, 2024, and March 31, 2025, the court issued two new notices. On Sept. 3, 2024, a notice was issued regarding the filing of electronic copies of documents. This notice replaced Item 12 of the Manitoba Court of Appeal Consolidated Practice Direction dated Feb. 5, 2024. On Sept. 9, 2024, a notice was issued informing the public and the profession about the aforementioned amendments to the Court of Appeal rules by virtue of Man Reg 78/2024.

Statistics

The Manitoba Court of Appeal Inventory

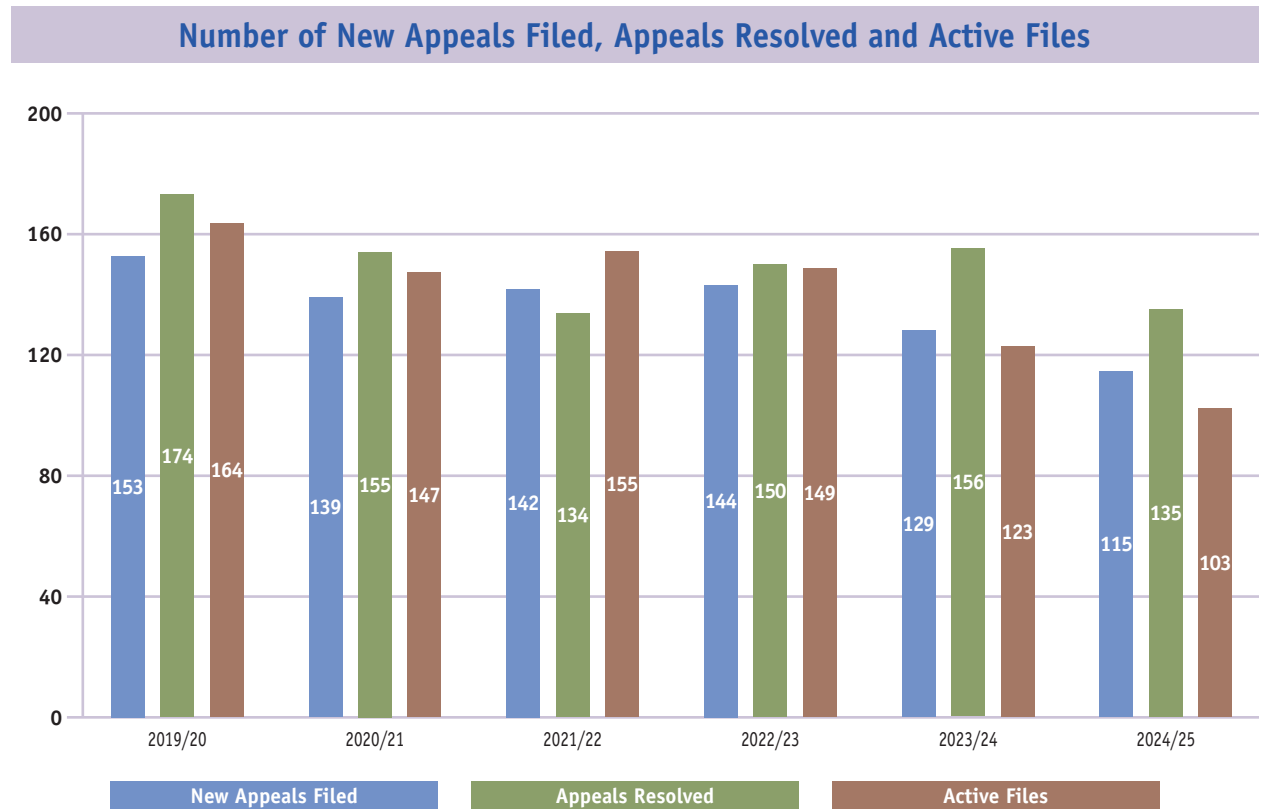
The Manitoba Court of Appeal inventory represents all appeal files that are in our registry system that have not yet been resolved. The inventory includes:

- new appeals recently filed
- appeals that are not yet perfected (which means that they are not yet ready to be assigned a hearing date)
- appeals with assigned hearing dates that are waiting to be heard
- appeals that have been heard but a decision has not yet been released

In essence, the total number of appeals filed, less the total number of files resolved, represents our inventory. The goal of the court is to maintain an inventory of less than 125 files.

A new appeal enters our registry system when a notice of appeal is filed. The following table shows how many new appeals have been filed in a particular year. The average number of new appeals filed over the last three years was 129 per year.

An appeal is resolved when a decision in the matter has been released or when the appeal has been withdrawn or deemed abandoned. The following table shows how many appeals have been resolved in any particular year. The noticeable trend is that the total number of active files has been reduced to 103, from a high of 164 in 2019-20. In 2024-25, the court achieved its goal of reducing its inventory below 125 active files.



Statistics

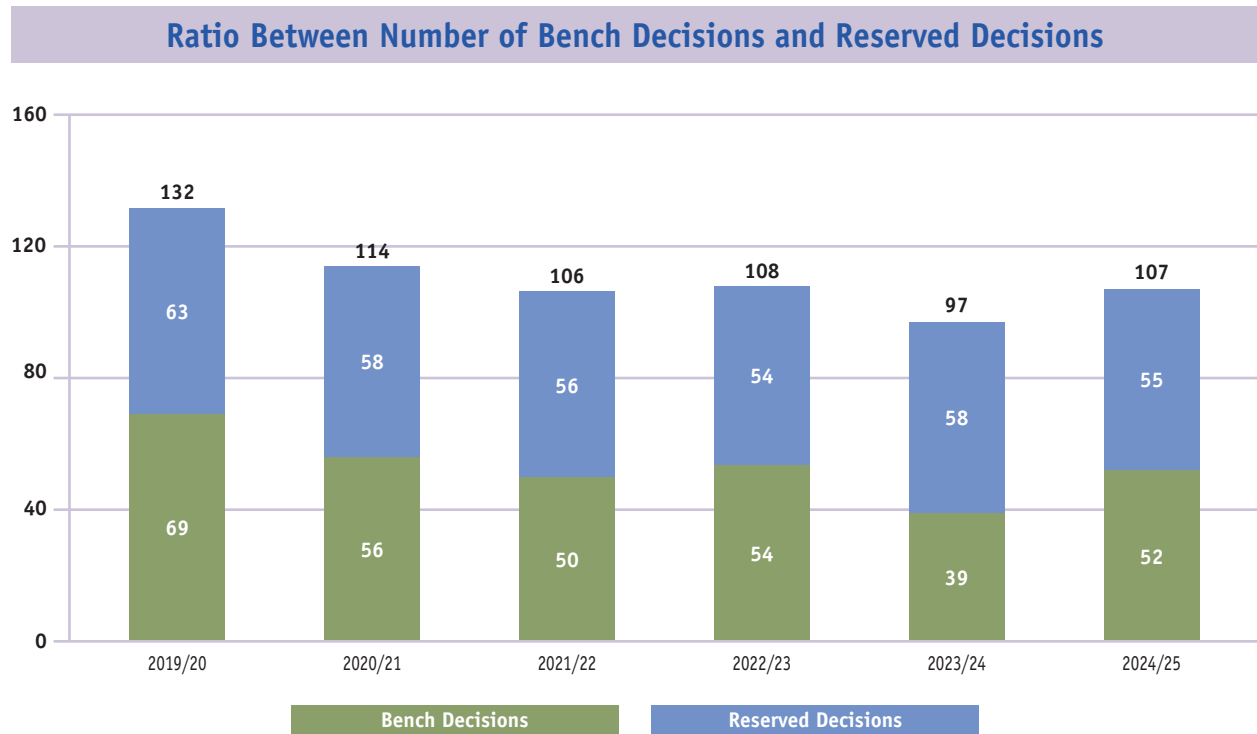
Number of Written Decisions Delivered by the Court

A panel of three judges typically hears appeals. Each time the court hears an appeal, it delivers written reasons. When a motion or an application is filed with the registry, a judge sitting alone will hear it. From time to time, written reasons are issued for motions or applications to the court but generally, only oral decisions are delivered.

Ratio Between Bench and Reserved Decisions

When a panel of three judges hears an appeal, it will either reserve its decision (reserved decision) or issue it from the bench (bench decision). The goal of the court is to achieve a 50/50 ratio between bench and reserved decisions.

In 2022-23, the court issued 54 bench decisions and 54 reserved decisions. Included in the reserved decisions were four paper appeals, which proceeded on the basis of the written materials only without an oral hearing being held in accordance with rule 37.3 of the Court of Appeal rules, and two rehearing motions. In 2023-24, the court issued 39 bench decisions and 58 reserved decisions. Included in the reserved decisions were four paper appeals and four rehearing motions. In 2024-25, the court issued 52 bench decisions and 55 reserved decisions. Included in the reserved decisions were four paper appeals.

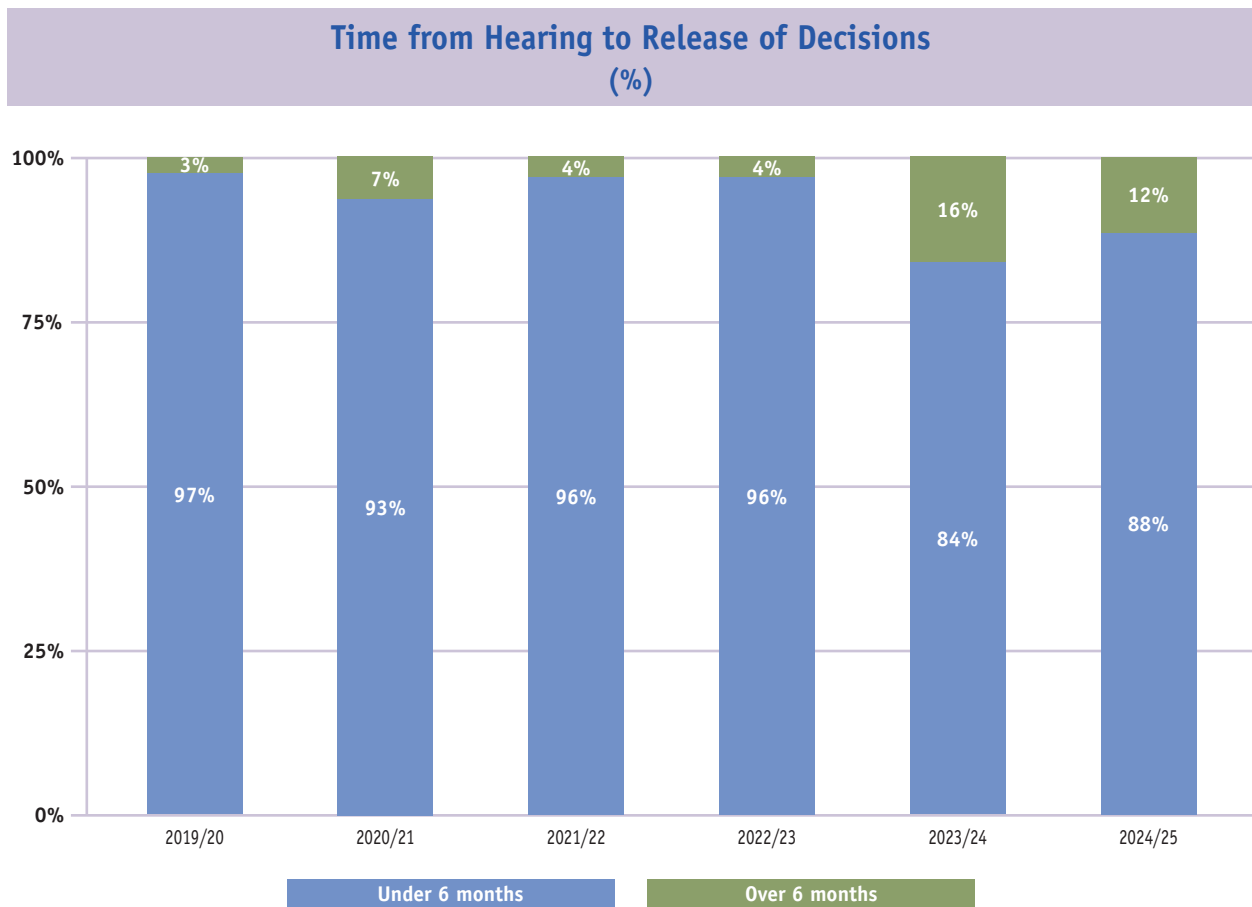


Statistics

Time from Hearing to Release of Decisions

The Canadian Judicial Council issued guidelines stating that trial court decisions should be delivered within six months after the trial hearing, except in special circumstances. The court tries to follow those guidelines as much as possible. However, that is not possible in certain circumstances, such as when there are either concurring or dissenting reasons or when the matter is extremely complex. The timeliness of reasons can also be affected by personnel and human resources issues.

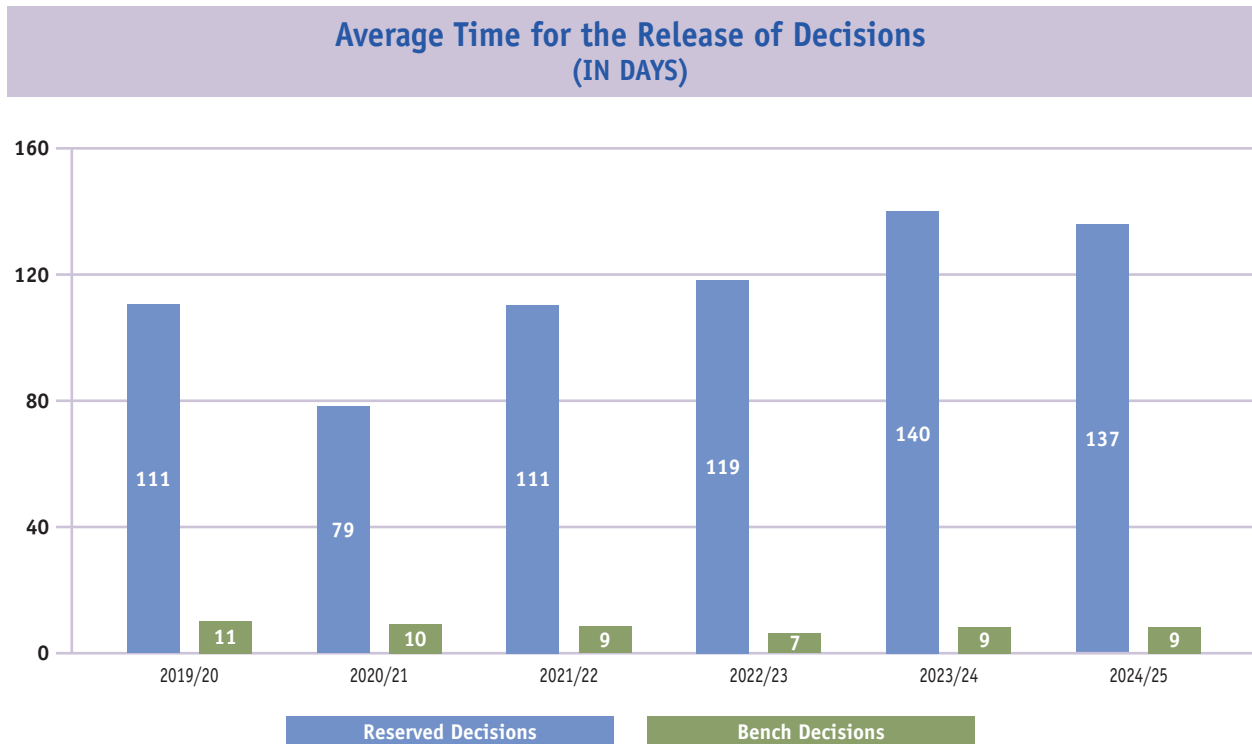
In the vast majority of cases, the court issues its reasons for decision less than six months after an appeal is heard. For example, in the last three years, the court has issued reasons for decision within six months in 89 per cent of cases.



Statistics

Average Time for Release of Decisions

Justice delayed is justice denied. The court understands that it is important for our decisions to be issued in a timely fashion. On average, our reserved decisions are released within four months from the date of the hearing. As for our bench decisions, they are released, on average, nine days after the hearing.



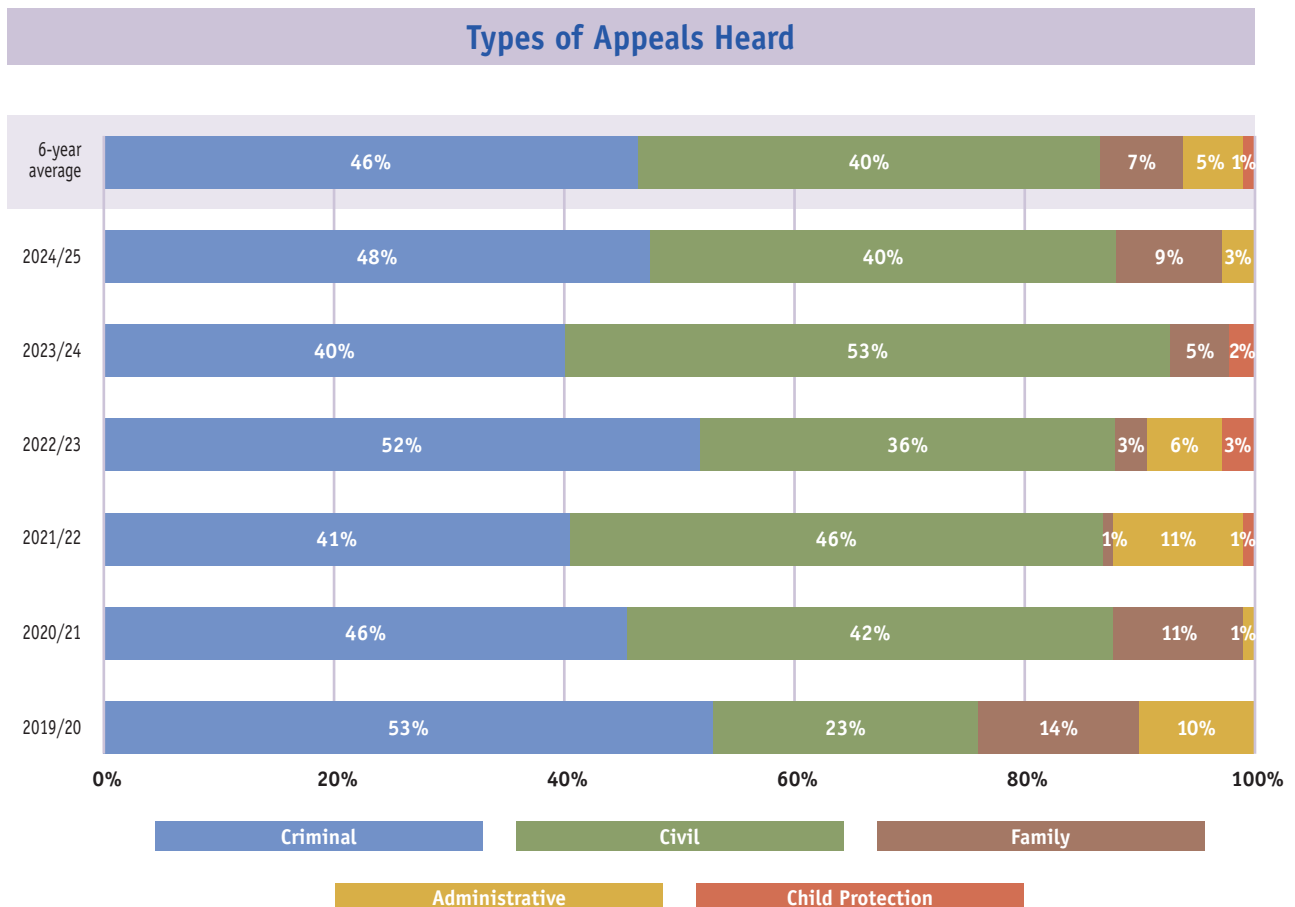
Statistics

Appeals by Area of Law

The types of appeals that the court hears can essentially be broken down into five areas of law:

- criminal
- civil
- family
- administrative
- child protection

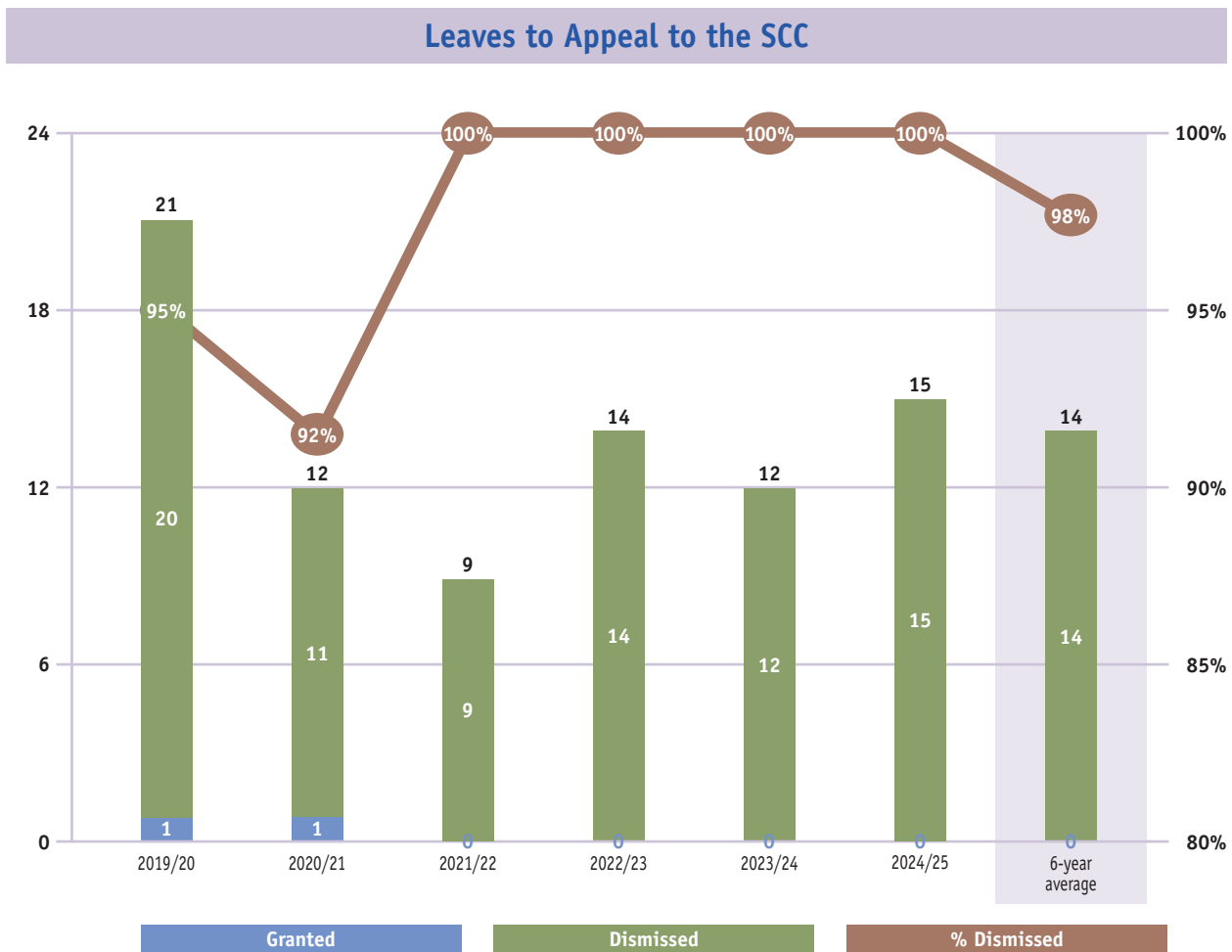
Historically, approximately half of our appeals related to criminal law matters and 40 per cent related to civil law matters, while family law, administrative law and child protection matters together represented approximately 10 per cent of our cases.



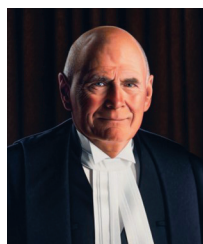
Statistics

Leave Applications to the Supreme Court of Canada from Manitoba Court of Appeal Decisions

The court averages over 110 written decisions a year. In the last three years, the average number of written decisions per year is 104. When a party disagrees with a decision of the court, it sometimes has a right to appeal directly to the Supreme Court of Canada. However, in most cases it must be granted permission and apply for leave to appeal. Most of the time (98 per cent) permission to appeal is refused. In the last four years, the Supreme Court of Canada has not granted leave to appeal from any decision of the court. The table below shows the numbers:



Former Chief Justice Richard Scott's Passing



**Former
Chief Justice
Richard J. Scott**

Hon. Richard Jamieson Scott, the 10th chief justice of Manitoba, passed away on Nov. 21, 2024, at the age of 86. He served as chief justice of the Manitoba Court of Appeal from 1990 to 2013, making him the longest serving chief justice in Manitoba history. Former Chief Justice Scott

was known for his sound judgment, intellect, kindness and integrity. The Court of Appeal recognizes his legacy of leadership, his dedication to serving the legal profession and his deep commitment to justice.

The death of former Chief Justice Scott was deeply mourned by the legal community in Manitoba and elsewhere in Canada. His achievements as a jurist were not confined to the local legal community – his passion for justice and fairness and his important contributions to the law and to various legal institutions earned him a justly deserved national reputation.

Former Chief Justice Scott was recognized posthumously by the Manitoba Bar Association for his longstanding contributions to the Public Interest Law Centre of Legal Aid Manitoba in January 2025. He was awarded the Manitoba Bar Association's 2025 Pro Bono Award at its annual Mid-Winter Awards Ceremony.

Closing Remarks

I am pleased to submit the Manitoba Court of Appeal's Annual Report for the 2024-25 fiscal year.

The court continues to offer in-person and remote hearings to litigants. It is thanks to my dedicated judicial colleagues that we continue to deliver quality judicial services in a timely manner. I would like to also thank my judicial colleagues for their support and collegiality.

The prompt delivery of judicial services, especially the court's judgments, cannot be achieved without the assistance and hard work of the court staff. I will take this opportunity to say a few words about the court staff.

First, the court is fortunate to have the best legal researchers in the profession. Their legal expertise and excellent writing skills allow the court to render sound, clear judgments. As has been noted earlier, the Supreme Court of Canada granted no leaves to appeal any of the judgments of the court in the last four years. As the highest court in Manitoba, the court's judgments during this period were the last word on the matters in dispute. Consequently, the need for excellence in legal research cannot be overstated.

Next, I would like to thank the registrar and the registry staff for their professionalism and positive approach to their work. The registry staff are the face of the court as they interact with members of the profession and the public on a daily basis. The court is fortunate to have such fine individuals in this important role.

I am grateful to the dedicated judicial assistants who support the judges with the delivery of the court's services. Their teamwork, competence and good cheer are welcome in chambers.

Finally, thank you to the executive legal officer and executive assistant to the chief justices and chief judge for their assistance with matters that are of common interest to the three courts. The court values and appreciates the daily support provided by everyone in the courts division of Manitoba Justice including Court Operations, Judicial Services and Sheriffs Services.

Marianne Rivoalen
CHIEF JUSTICE OF MANITOBA