

BC JUDICIAL REVIEW SELF-HELP GUIDE

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Community Legal
Assistance Society

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See judicialreviewbc.ca for recent updates to this guide.

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BC Judicial Review Self-Help Guide

A judicial review is a court action in which a judge reviews the decision of a tribunal or other legal decision-maker for serious errors or unfairness.

Tribunals are decision-makers set up by the government to resolve disputes and make decisions. For example, the Residential Tenancy Branch is a tribunal that adjudicates disputes between tenants and landlords. The Employment and Assistance Appeal Tribunal is a tribunal that considers appeals about income assistance and disability assistance.

This guide explains how to represent yourself in a judicial review in the BC Supreme Court. It does not apply to judicial reviews in other courts.

Judicial Review

You may want to consider judicial review if you have received a decision from a tribunal which did not go in your favour and you believe that the decision was unreasonable or unfair.

Examples include:

- A decision about your welfare (income assistance) from the Employment and Assistance Appeal Tribunal
- A decision about your employment standards claim from the Employments Standards Tribunal
- A decision about your pension or employment insurance from the Social Security Tribunal
- A decision about your workers' compensation benefits from the Workers' Compensation Appeal Tribunal
- A decision about your human rights claim from the Human Rights Tribunal

A judicial review is a request to the BC Supreme Court to evaluate the decision made by the tribunal and decide whether or not it is unreasonable or unfair. Judicial review can only be undertaken when you have exhausted all internal appeals at the tribunal. This means that generally you cannot judicially review a lower-level decision (for instance, an investigation conducted by the WCB office) until it reaches the highest level (such as the Workers' Compensation Appeal Tribunal).

If you decide to proceed with a judicial review, it will help you prepare for court, tell you how to apply for fee waivers, how to file the judicial review, how you should properly serve documents to parties and how you can apply for fee waivers. It will also tell you what is most likely to happen during the hearing at the BC Supreme Court and where you can look to for assistance with your judicial review.

1. Options

If you would like to challenge the decision of an administrative decision maker or tribunal, the first thing you should find out is whether there is a process to review or challenge the decision. Many administrative decision makers have an internal process to challenge a decision, like a review or appeal. For example, if you have a decision from the Review Division of WorkSafeBC, you may be able to appeal that decision to the Workers' Compensation Appeal Tribunal.

As a general rule, you cannot begin a judicial review to BC Supreme Court until after you have used all the internal review or appeal options with the administrative decision maker or tribunal.

If the administrative decision maker or tribunal you have a decision from does not have any internal review or appeal options or you have used all the internal review or appeal options, you can also consider a complaint to the provincial Ombudsperson.

This section of the guide will help you decide what to do after you've received the decision. It will give you an overview of the different options available besides judicial review, such as negotiating with the other party or filing a complaint with the Ombudsperson.

Negotiation

It can sometimes make sense to negotiate with your opposing party in order to reach an outcome that will be more favorable to you. Negotiation can also help you save some time, money and effort.

Ombudsperson Complaint

The Ombudsperson is an independent officer of the BC legislature, and they are responsible for making sure that government bodies treat people fairly. The Ombudsperson can conduct an independent investigation and, in some cases, can recommend that the government body fix a problem or improve its practices and procedures so that future clients do not experience the same unfair treatment.

Situations where the Ombudsperson will not investigate

The Ombudsperson **cannot** investigate your case if you simply disagree with the outcome. If your tribunal uses a fair process to reach a reasoned decision that was not in your favour, the Ombudsperson cannot recommend that the tribunal change its decision. To illustrate, the following are examples of situations where a complaint will **not** be successful:

- Both you and the other party had a chance to provide evidence, but the arbitrator believed the other side's version of events.
- A staff member gave you information that was not what you wanted to hear.
- Your arbitrator did not consider some of your evidence, but you failed to submit it.
- During the hearing, the arbitrator asked you to wait your turn to speak.
- The arbitrator gave reasons explaining her decision, but you disagree with them.

- Because the Ombudsperson is restricted to investigating **public bodies**, you cannot file a complaint alleging unfairness on the part of your private actor such as a landlord.

How do I know if I was not treated fairly?

Problems with fairness can arise before, during, and after your hearing before the Branch. At a basic level, fairness requires that all parties are given an opportunity to hear the case against them and to respond to that case. In practice, this means that parties are treated fairly when:

- Information given to parties about the process is clear, accurate and accessible;
- Parties to a dispute have a chance to give information and evidence to support their position and to know and respond to the information given by the other side;
- Decisions are made by unbiased and impartial decision-makers;
- The parties' reasonable expectations regarding the procedure that will be followed in making decisions are met;
- Decisions are made within a reasonable time;
- Clear and adequate reasons for the decisions are given; and
- The unsuccessful party is informed of any appeal or review procedures available.

Attempting to resolve the complaint directly before complaining to the Ombudsperson

You should try to resolve your complaint yourself before complaining to the Ombudsperson. Depending on your situation, you might complain directly to the decision-maker to try to resolve the matter. Complaints to the decision-maker may help identify areas where it needs to improve its services and procedures. In your complaint, clearly and concisely set out what you found to be unfair.

How to make a complaint

You can make a complaint by filling a form on the BC Ombudsperson website or by calling 1-800-567-3247. You can make a complaint by filling in the form on the BC Ombudsperson website at www.bcombudsperson.ca or calling the Ombudsperson's office at 1-800-567-3247. We also have a kit available on the CLAS website at www.clasbc.net that is designed to make filing Ombudsperson complaints really easy.

2. Preparing a Judicial Review

A judicial review is not an appeal, and a judge will generally not re-hear the case on judicial review. A court will not overturn a tribunal decision simply because you think that the tribunal was wrong, or because you do not agree with the decision made, or because you want a second chance to argue your case.

The role of the court on judicial review is limited to reviewing the decision, and the decision-maker's procedures in reaching the decision, to see if it is so flawed or procedurally unfair that it should be set aside or cancelled. In reviewing a tribunal decision, the court recognizes that the government has given the tribunal (and not the court) the power to make the decision. This means the court will usually defer to the tribunal and will not interfere with the tribunal's decision unless there is a very serious error.

What will happen if you win a judicial review

If you bring a judicial review and you win (the court agrees that the tribunal decision is so faulty it should be set aside), it is up to the court to decide the best remedy.

Typically, the court will set aside the tribunal's original decision and send the case back to the tribunal for a re-hearing. This means that the tribunal will have a second chance to hear the case and make a new decision without repeating the same errors. The judge will usually not make a new decision in your case. If you win your judicial review, the other side may have to pay for your legal costs. Court costs could be several thousand dollars, even if no lawyer was hired.

What will happen if you lose a judicial review

If you bring a judicial review and you lose (the court decides not to interfere with the tribunal's decision), then the original Tribunal decision remains in effect.

In most court cases, the losing party in a judicial review is responsible for paying the other side's court costs. If you win your judicial review, the other side may have to pay for your legal costs. If you lose your judicial review, you may have to pay the other side's legal costs. Court costs could be several thousand dollars, even if no lawyer was hired.

Getting Started on a Judicial Review

To succeed in a judicial review you need to show the court that the Tribunal made a serious legal or factual error in the decision, or that the tribunal process for making the decision was so unfair that the decision should be set aside.

There are essentially two types of errors that might lead a court to overturn a tribunal decision on judicial review:

1. Procedural fairness errors.
2. Substantive errors.

Procedural fairness errors

Procedural fairness errors are errors in the way the hearing was conducted or the way the decision was made. They are **errors that make the process unfair**.

These are examples of problems that may be procedural fairness errors:

- You didn't get proper notice of the tribunal hearing;
- You were unable to attend the tribunal hearing because of circumstances that you could not control;
- You did not get a chance to see all of the evidence that the tribunal used to reach its decision (for example, you didn't get a copy of the other side's evidence);
- You did not get a chance to make your case (for example, you were not allowed to talk at the hearing or you were cut off);
- You were not allowed to have someone represent you or assist you at the hearing; or
- You did not have a chance to test the other side's evidence (for example, you were not allowed to question the other side's witnesses on important points).

Before claiming procedural unfairness, think carefully about the examples listed above and the procedures the tribunal used. If you lost your case, you may think the outcome is unfair, but that does not necessarily mean the decision will be set aside on judicial review. You need to show the court a very serious error in the tribunal's procedure, along the lines of the examples listed above.

The following types of problems with decisions are usually NOT procedural fairness problems:

- There was conflicting testimony or evidence and the tribunal believed the other side's testimony or evidence instead of yours.
- The Tribunal did not consider evidence that was not put before the tribunal.
- During the hearing, the tribunal asked you to wait your turn to speak.
- You disagree with the tribunal's decision.

Substantive Errors

Substantive errors are **errors in the actual decision made** by the decision maker.

A tribunal makes a substantive error when it makes a mistake in its:

- factual findings (for example, how it resolved conflicting evidence about what happened);
- legal findings (for example, how the tribunal interpreted the law that applies); or
- exercise of discretion (for example, how the tribunal decided to act when it had the option to do something in a particular way, like extending a timeline for submitting a document).

How serious does a substantive error have to be for a court to set aside a tribunal decision on judicial review? It depends on what tribunal you are dealing with and what type of error you are saying the tribunal made.

For most tribunals in BC there are three possible levels of error that you might need to show the court. These are called “standards of review,” because they show what standard the court will use when reviewing the tribunal’s findings. The law on standard of review is complicated and you should get legal advice to make sure you understand how it fits into your case.

Here is a rough overview of the three possible standards of review:

Correctness: Where the standard of review is correctness, all you need to show is that the tribunal was incorrect. The court will review the evidence and decide whether or not it agrees with the tribunal. Correctness is the least deferential standard of review, meaning the court will be more willing to interfere with the tribunal’s decision where correctness is the standard of review.

Reasonableness: Where the standard of review is reasonableness, you need to show that, given all the evidence that was before the tribunal and given the applicable law, the tribunal’s findings were not within the range of reasonable options available to the tribunal. On this standard of review the court might disagree with the tribunal’s decision but will not interfere with the decision if it is within the range of reasonable options.

Patent unreasonableness: This usually has two meanings, depending on whether you are claiming that the tribunal made an error in factual or legal findings, or in an exercise of discretion. This is the most deferential standard of review, which means the court will be the least likely to interfere.

- For factual or legal findings, you need to show that the tribunal’s decision was openly and clearly unreasonable, or that there is no evidence to rationally support the tribunal’s decision. This means that, even if a court disagrees with the tribunal’s decision, as long as there is something to support it, the court will not interfere.
- For discretionary decisions, you most often need to show that the tribunal (i) acted arbitrarily or in bad faith; (ii) had an improper purpose; (iii) considered primarily irrelevant factors; or (iv) failed to take the legislative requirements into account.

The chart on the next page sets out which standards of review apply to the tribunal you are dealing with.

Standards of Review by Tribunal

Tribunal	Procedural fairness	Factual findings	Legal findings	Discretionary decisions	Other decisions
Agricultural Land Commission	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Community Care and Assisted Living Appeal Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Employment and Assistance Appeal Tribunal	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Employment Standards Tribunal	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Farm Industry Review Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Financial Services Tribunal	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Health Professions Review Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Hospital Appeal Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Human Rights Tribunal	Whether, in all of the circumstances, the tribunal acted fairly	Reasonableness	Correctness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness

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Tribunal	Procedural fairness	Factual findings	Legal findings	Discretionary decisions	Other decisions
Industry Training Appeal Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Mental Health Review Panels	Whether, in all of the circumstances, the tribunal acted fairly	Reasonableness	Correctness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Passengers Transportation Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Residential Tenancy Branch	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Safety Standards Appeal Board	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness
Workers' Compensation Appeal Tribunal	Whether, in all of the circumstances, the tribunal acted fairly	Patent Unreasonableness	Patent Unreasonableness	The Tribunal (i) acted arbitrarily/in bad faith; (ii) had an improper purpose; (iii) considered irrelevant factors; or (iv) failed to consider the legislative requirements.	Correctness

Note: If the tribunal you are dealing with is not on the list, then you need to seek legal advice to find out what standard of review applies.

Time Limit to File a Judicial Review

There is a time limit for filing a judicial review. If the tribunal that issued your decision is covered by the Administrative Tribunals Act, then you have 60 days from the date the decision was made to file a judicial review. This 60-day time limit applies even if you received the decision on a date after it was made, for example if it took a few days for the decision to get to you in the mail.

If you do not file within the time limit, you may lose your right to bring a judicial review. It is possible to apply for an extension of time, but there is no guarantee that the court will give one and it complicates the judicial review process if you file late.

The 60 day time limit applies to decisions of the following bodies:

- Agricultural Land Commission
- British Columbia Human Rights Tribunal
- Director, Business Practices and Consumer Protection
- Director of the Residential Tenancy Branch (decisions made by Arbitrators)
- Employment and Assistance Appeal Tribunal
- Employment Standards Tribunal
- Farm Industry Review Board
- Financial Services Tribunal
- Health Professions Review Board
- Hospital Appeal Board
- Industry Training Appeal Board
- Labour Relations Board
- Mental Health Review Panels
- Passenger Transportation Board
- Residential Tenancy Branch
- Safety Standards Appeal Board
- Workers' Compensation Appeal Tribunal

If the tribunal or body that made your decision is not listed above, then you should get legal advice to find out how long you have to file a judicial review.

Petition for Judicial Review

To begin a judicial review, you need to file court documents with the BC Supreme Court, and provide filed copies of these documents to other parties.

A petition is the court form that starts your judicial review. It sets out what you are asking the court to do, why you are asking the court to do it, and the facts and evidence that form the basis for your judicial review.

Your petition will start with a heading on the first page. This heading is called the “style of proceeding” or “style of cause” and it gives basic information about the case: what court the case is filed in; what registry it is filed in; the court file number; and the parties to the judicial review. The “parties” are usually all the people, organizations, or companies that are involved in the dispute that led to the judicial review. For example, if you made a human rights complaint about your employer and you would like to challenge the decision of the British Columbia Human Rights Tribunal, the parties in the judicial review will be you, your employer, and the British Columbia Human Rights Tribunal.

Once you draft the style of proceeding you will use it on the first page of every court document you draft.

The petition will set out 4 things:

1. The order that you are seeking from the court;
2. The facts that this petition is based on;
3. The legal basis that the petition will rely on in support of the orders; and
4. The material to be relied on.

There is a sample petition for judicial review that you can look at on page 40.

For blank documents, visit www.jrbc.ca/jr/forms/

Tips for Representing Yourself

You have the right to represent yourself in court, whether you are doing so because you prefer to represent yourself or because you cannot afford a lawyer. However, there are some risks to representing yourself.

A warning about representing yourself

It is often helpful to have legal advice or representation. This guide cannot deal with all cases and situations, so try to get advice from a lawyer.

Many people involved in court cases in BC have lawyers representing them in court. Judges are used to having lawyers make presentations, so sometimes judges can get frustrated with self-represented people. This is especially true if the self-represented person is not prepared, rude, or unable to present their case in a concise and organized way.

If you lose your judicial review you could have to pay the other side's court costs. This can be several thousand dollars. This is yet another reason why it is good to get legal advice on the strength of your case before going ahead with a judicial review.

Tips to help you prepare for representing yourself

When preparing your court documents and preparing to speak in court, the following tips may help you with your case.

- **Take the time to prepare.** Preparing for a judicial review takes quite a bit of time and you need to spend the time required to put all the materials together.
- **Type your documents.** If you have access to a computer, it will help the judge.
- **Have a friend available** through the process to bounce ideas off and to go over your material. It is also useful to have a friend go with you to the court hearing.
- **Always tell the truth** in your court documents and in your presentations to the court. Lying to the court is a serious violation of the law and it may also hurt your case.
- **Keep all receipts** for expenses related to the judicial review. These include court fees, hearing fees, photocopying fees, the cost of binding documents, postage fees, etc. If you keep these receipts you may be able to get the other side to repay those expenses if you win.
- **Go and see what court is like.** Go to the courthouse and ask at the information booth when the court will be hearing a contested chambers application, since these are the types of cases that are most likely to be similar to a judicial review. Court typically starts at 10 a.m. and is open to the public. Do not eat, drink, or disrupt the court process and please turn off your cell phone.

Tips for your presentation to the court

When it comes time to speak to the judge or to write an argument for the judge, follow these tips:

- **Keep it short and simple.** Decide what you think is fundamentally wrong with the Tribunal decision. Your job is to make the problem(s) with the Tribunal's decision clear

to the judge. Most judicial reviews can be reduced down to a few simple sentences. Make sure that you include all the important points, but keep it simple and as short as possible.

- **Stay on topic.** Once you have identified what the judicial review is about, stick to that. Focus on showing the judge specifically what is wrong with the Tribunal decision. It may be tempting to go into a lot of background, perhaps to try and make the other side look bad or make yourself look sympathetic, but this is usually not helpful. Going off topic makes it harder for the judge to understand what is really wrong with the Tribunal decision. Again, you should be able to summarize your case in a few sentences.
- **Be polite and patient.** There is a lot of waiting in chambers and it can take time for your case to be called. Once your case is called, the judge may want you to slow down, and you may have to listen to the other side say things that you do not agree with. Stay calm, do not get frustrated, and do not talk over top of other people (especially the judge).
- **Be organized.** The more organized you are, the clearer you can make things for the judge. Remember, your job is to help the judge see why the Tribunal's decision is problematic. When presenting to the judge, come up with an organized way to explain your case. Chronological order is often a good way to organize a presentation, but there may be other approaches that make sense.

What not to do when representing yourself

These things will hurt your case for judicial review:

- Do not wait until the last minute. Deadlines are important, and it is essential to properly prepare.
- Do not be late for court.
- Do not eat or drink in the courtroom (other than the water provided in the courtroom).
- Do not have your cell phone on.
- Do not attempt to contact the judge outside of the courtroom (by phone, in writing, etc.).

Affidavit in Support of Petition

In a judicial review, you typically do not give evidence by testifying in court. All the evidence is in affidavit form, which means it is written down in a sworn statement, or attached as an exhibit to a sworn statement. Usually you will be restricted to the evidence that was in front of the tribunal that made the decision. That is because the court will be considering whether, given the evidence in front of the Tribunal, the tribunal made a reviewable error.

The sworn statement part of an affidavit (called the body of the affidavit) is where you state the facts of the case. The person making the affidavit will need to swear that its contents are true and accurate, so be very careful when drafting affidavits.

In an affidavit, you are trying to provide evidence for the court about what happened leading up to the tribunal hearing; what happened at the tribunal hearing; and what happened since the tribunal hearing. Do not put legal arguments in the body of an affidavit.

If you are applying for an interim stay of the tribunal's decision, you should put facts in your affidavit about what the impact on you will be if the tribunal's decision is enforced before the judicial review is decided. For more information see the section on Interim Stay on page 18.

Your affidavit must be sworn in front of a commissioner for taking affidavits. Each court registry has someone that can swear your affidavit for a fee. All lawyers and notaries can swear affidavits. If you do not have the money to pay to have your affidavit sworn, you can ask the court to waive this fee for you. See the next section for information on fee waivers.

There is a sample affidavit in support of a petition that you can look at as an example on page 44.

For blank documents, visit www.jrbc.ca/jr/forms/

Requisition for Court Fee Waiver

It currently costs \$200 to file a judicial review. There may be additional fees for any other court applications you might need to do.

If you cannot afford these fees, and if your case has some merit, the court has the power to waive the fees. To do that, you must appear before a judge or master and prove that you cannot afford the fees. You must also show that there is at least some merit to your judicial review.

To request a waiver of fees, you will need to prepare 3 things:

1. A requisition requesting that the court waive the fees.
2. A draft of a court order granting the fee waiver. This is the document the judge or master will sign if your fee waiver request is granted. You should prepare a draft order with the space for the name of the judge or master blank.
3. An affidavit that provides evidence supporting your request for a fee waiver.

Note: Even if you get an order from the court waiving filing fees, this does not mean that you will not have to pay the other side's court costs if you lose.

There is a sample requisition for fee waiver that you can look at as an example on page 46.

There is a sample order to waive fees that you can look at as an example on page 48.

For blank documents, visit www.jrbc.ca/jr/forms/

Affidavit in Support of Fee Waiver

The court will only grant a fee waiver if:

- you cannot afford the court fees, and
- you have an arguable case for judicial review.

To satisfy the court on these points, you will need to file an affidavit in support of your requisition for a fee waiver.

This affidavit must set out your financial situation in detail (including a statement of income and expenses, assets and liabilities). If you are on income assistance or disability assistance, you will need to attach proof of that.

In addition to setting out your financial situation, the affidavit for fee waiver also needs to attach a draft copy of your petition so the court can see what the case is about. The court will use the affidavit for fee waiver to decide whether you cannot afford the fees, and whether or not you have an arguable case for judicial review.

There is a sample affidavit for fee waiver that you can look at as an example on page 49.

For blank documents, visit www.jrbc.ca/jr/forms/

3. Interim Stay

Filing a judicial review does not automatically put the tribunal decision on hold while you conduct your judicial review. Unless you apply for, and obtain, a court order saying that the tribunal decision is put on hold, the other parties may be able to enforce the tribunal decision while your judicial review is pending.

In appropriate cases a judge of the BC Supreme Court may order that the tribunal decision is on hold temporarily while a judicial review is pending. To do this, the court makes an order called an “interim stay”.

To ask the court for an interim stay of a tribunal decision you need to:

- First, file an application for judicial review of the Tribunal decision; and
- Second, make a court application asking for an interim stay.

It is up to the judge to decide in each case whether or not to order an interim stay. When a judge does decide to order an interim stay of a tribunal decision, s/he usually specifies that the interim stay is in effect only until a certain specific date or only until the court has dealt with the full application for judicial review.

If the court gives you an interim stay, it will be important to set the hearing of your judicial review for sometime before the interim stays runs out. Otherwise, the tribunal decision can be enforced when the interim stay runs out.

4. Filing a Judicial Review

To start your judicial review, you need to go to the BC Supreme Court registry and file your petition and affidavit. This starts the judicial review process.

When you go to the court to file your documents, bring the following:

- **Your original petition**, plus enough copies for you and every other party listed under the “On Notice To” section on the first page;
- **Your original affidavit** in support of your judicial review, plus enough copies for you and every other party listed under the “On Notice To” section on the first page; and
- Money to pay the \$200 filing fee. The court will accept cash, interac, money orders and cheques. See the next section if you cannot pay the fee.

If you are asking the court to waive your fees, you do not need to bring the \$200, but you do need to bring the following, in addition to the items listed above:

- Your **requisition for a fee waiver** plus one copy for you;
- Your **original affidavit for fee waiver** plus one copy for you; and
- A draft of the **order waiving your fees**.

Make the copies of all these documents after you have signed and dated the originals. The copies need to be exactly the same as the originals.

When you get to the courthouse, look for the civil registry desk. Get in line, and when it is your turn, tell the clerk at the desk that you are representing yourself in a judicial review and you would like to file your documents. If you are applying for a fee waiver, tell the person that you want to apply to have the court filing fees waived. Hand the clerk your original documents and copies.

If You are Paying the Filing Fees

If you are not requesting that the court waive filing fees, pay the clerk the \$200 filing fee to file your judicial review. The registry accepts cash, cheque, debit cards, or money orders.

The registry will then review your documents. If they are properly filled in, the clerk will take your filing fee and file the documents. To file the documents, the clerk will stamp your original petition and affidavit, and stamp your copies. The clerk will keep the originals at the registry, and give you back the copies. The copies are the documents you will need to serve. You should leave with enough stamped copies for you and everyone listed under the “On Notice To” section of your petition. If you want the court registry to swear your affidavit, this will cost an additional \$40.

Once your documents are filed, the registry will give you stamped copies of your petition and affidavit.

Make sure you leave the court with a copy of your petition and affidavit that are stamped with the following:

- File number (usually at the top right corner)
- Date stamp (usually at the top left corner)
- For the petition only, a court seal (usually at the top left corner)

Once your petition and affidavit are stamped in this way your judicial review is filed.

If You are Applying to Have Your Filing Fees Waived

If you are requesting that the court fees be waived, the person at the registry will not file your petition and affidavit until you go in front of a judge or master to get an order waiving the fees. They will probably hand you back your stamped requisition and affidavit for fee waiver, and they should be able to tell you when you can see a judge or master.

Depending on the location of the registry you are filing in, you might be able to speak to a judge or master about the fee waiver that same day, or you might have to wait until a day when a judge or master is available.

When you are at the registry, ask the registry clerk to review or “vet” your draft order for a fee waiver. He or she might sign it, which will speed things along when you go in front of the judge.

Whether the registry sends you to a courtroom right away or it happens later, the process is the same. Find the courtroom you are going to by asking the registry staff or the sheriff. When you go to the courtroom, you may find court already in session. If that is the case, quietly go up to the side of the clerk’s desk, which is at the front of the courtroom. Hand the court clerk your requisition and affidavit for your fee waiver request. You will then need to wait until your name is called.

Once your name is called, go up to the podium and tell the judge or master the following:

1. You are representing yourself in a judicial review and you are seeking a fee waiver because you cannot afford the court filing fees.
2. Explain your financial situation and why you cannot afford the filing fees.
3. Explain very briefly what your judicial review is about and what errors you think the Tribunal made in its decision. Before you speak to the judge or master think of a clear and concise way to explain this in a few sentences.
4. The judge or master might ask you some questions about your financial status and the merits of your judicial review.

Remember, your goal here is to quickly show the court that you cannot afford the filing fees and your judicial review has merit.

If the judge or master decides to grant your fee waiver request, tell her or him that you have brought a draft order and that the registry has reviewed (“vetted”) it. Hand the draft order to the court clerk, who will give it to the judge or master. After the order is signed, you should take it back down to the registry and give it to them. Ask them to enter it urgently. You should also ask them for a copy of the signed order. This will let you file your documents without paying the filing fees.

If the judge or master does not grant your request for a fee waiver, you will have to pay the filing fees to file your judicial review.

Once your documents are filed, the registry will give you stamped copies of your petition and affidavit.

Make sure you leave the court with a copy of your petition and affidavit that are stamped with the following:

- File number (usually at the top right corner)
- Date stamp (usually at the top left corner)
- For the petition only, a court seal (usually at the top left corner)

Once your petition and affidavit are stamped in this way your judicial review is filed.

5. Serving a Judicial Review

Once you have filed your petition and affidavit in support of your judicial review, you will need to serve stamped copies of these documents on all other interested parties.

Usually the interested parties are the same ones listed in your “On Notice To” section on the first page of your petition. The interested parties will always include the Tribunal, the Attorney General of British Columbia, and anyone that was a party in the Tribunal hearing.

The purpose of serving the court documents is to give the other parties formal notice of your court proceeding, and to give them a chance to respond to your judicial review. **You cannot proceed with the judicial review without serving the other parties.** Because the petition and the affidavit are the first documents to give the other parties notice of your judicial review, they must be served in a special way.

If you do not serve the petition and supporting documents on all of the other parties within one year, your petition will expire. In that situation, you can apply to court to renew the petition for a further 12 months and it will be up to a judge to decide whether you can go forward with your case.

Process Servers

Process servers can be hired to give legal notice of court proceedings by serving documents to other parties in judicial review. A process server will serve your completed petition and affidavit of judicial review to the interested parties. You do not need to use a process server, but some people find it easier to do so.

If a property is owned by a corporation, they will have a registered office. Provide the process server with a copy of a corporate search to make sure that they serve the registered office. You can also ask the process server to do a search for you, although this may incur an extra charge. You can also do a land title search in order to make sure that you have the correct corporation name.

You do not need to use a process server to serve the Attorney General of British Columbia. Documents to be served on the Attorney General need to be mailed by registered mail to the Deputy Attorney General at Victoria or must be served by hand at the Ministry of Justice in the City of Victoria. For more information, see How to Serve the Attorney General.

When deciding whether or not to hire a process server, keep in mind:

- Fees for process servers vary by company, but the cost of hiring will generally start between \$80-\$200.
- Process servers are hired on a per service basis. This means that if you hire them to serve four parties, you will pay the service fee four times.
- Generally, the fee covers multiple attempts of service to the same party (usually three). However, you should clarify this with the specific company you may be hiring.

- Fees will vary depending on the location of the party you are serving, with more remote areas being more expensive.
- Some process servers may require you to pay a retainer amount up front.
- The company may require you to provide information (e.g. address, contact, and photograph) of the party you are trying to serve.

Hiring a process server may be beneficial if you do not have the time to serve a party to your judicial review, or if you are concerned about them being evasive. However process servers are expensive and you may consider it more reasonable to serve some or all of the parties yourself.

How to Serve Other Parties

Typically, other parties will be individual people, corporations (including companies, societies, and co-ops), or government bodies. To personally serve these parties your stamped petition and affidavit, you must do the following:

- Individual: you must personally hand the documents to the individual.
- Corporation:
 - you can personally leave the documents with a manager, clerk or secretary at a branch office of the corporation; or
 - if it is a BC corporation (including a company, a society, or a co-op), you can send the documents by registered mail to the corporation's registered office. You can find out a company, society, co-op's registered service address by doing a search of the British Columbia Corporate Registry. To find out who owns the property, you can do a land title search. If you have a short deadline for service, using registered mail to serve a corporation may not be good option.
- Government bodies other than the Attorney General: you must personally hand the documents to a clerk, agent or secretary at the agency's office.

Remember to **keep a record of the date and time of service, and the name of the person** you physically give the documents to. Note that, if you are serving all the parties in the same way (for example, by personally handing over the documents), you can use the same service letter for each party. If you are using a different method of service for each party, you will need to use separate cover letters for each of them setting out how you served that particular party. Alternatively, you may use the same cover letter and write under each party's name how you served them. Keep a copy of all of your signed cover letters.

If you do not live near enough to one of the parties to be able to serve them as set out above, you can arrange for someone else to serve the documents for you. This person will have to be able to provide an affidavit of service. See the section Proving Service on page 28 for more information on the affidavit of service.

You should include a cover letter with the documents that you are serving.

There is a sample service letter that you can look at as an example on page 59.

For blank documents, visit www.jrbc.ca/jr/forms/

How to Serve the Tribunal

To serve the tribunal, you have to personally take the filed petition and affidavit to the tribunal's office and give the documents to a secretary, clerk, or agent of the tribunal. Make sure that you write down the date, time and the name of the person you gave the documents to.

If you do not live near an office of the tribunal, you can arrange for someone else to serve the documents for you. This person will have to be able to provide an affidavit of service. See the section Proving Service on page 28 for more information on the affidavit of service.

You should include a cover letter with the documents that you are serving.

There is a sample service letter that you can look at as an example on page 59.

For blank documents, visit www.jrbc.ca/jr/forms/

How to Serve the Attorney General

You can serve the Attorney General in either of the following ways:

- **In-person:** take a copy of your stamped petition and affidavit into the Ministry of the Attorney General's office in Victoria during office hours, and leave it with a lawyer there. **Make sure you write down the date, time, and the name of the lawyer when you go to the Legal Services Branch of the Ministry of Justice, 3rd Floor – 1001 Douglas Street, Victoria, BC.**
- **By registered mail:** Send copies of your stamped petition and affidavit by registered mail to the Deputy Attorney General in Victoria. If you are using this method, **keep your receipts and tracking number.** The Attorney General's Victoria address is:

Deputy Attorney General
Ministry of Justice
PO Box 9280 Stn Prov Govt
Victoria BC V8W 9J7

You should include a cover letter with the documents that you are serving.

There is a sample service letter that you can look at as an example on page 59.

For blank documents, visit www.jrbc.ca/jr/forms/

Proving Service

Generally, you can prove that you served the parties in your judicial review in two ways:

1. **The parties file a response to petition.** If the opposing party files a response to petition (a court document indicating that they are responding to your judicial review), that will prove to the court they were served properly. Opposing parties have 21 days from when you served them to file and serve you a copy of their response to petition. **Note:** if you get a response to petition form from a respondent, then you have to give them notice of the court steps for the rest of the judicial review. OR
2. **You file an affidavit of service.** If the opposing party does not file a response to petition form (and they may not if they decide not to contest your judicial review), then you can prove you served them by swearing an affidavit of service. In the affidavit, you need to set out the date and time of service, and the name of the person you personally gave the documents to. You will also need a copy of the stamped documents that you served. If you need to swear an affidavit of service and you can go to the BC Supreme Court Self-Help Centre or a court registry near you and ask for Court Form 15.

If you are serving a corporation at its registered office or the Attorney General by registered mail, keep copies of your registered mail receipts and tracking numbers

6. Judicial Review Court Hearing

This section will guide you through the judicial review court hearing. There are five steps to a judicial review court hearing:

1. Scheduling a court hearing.
2. Preparing documents for a court hearing.
3. Preparing to present your case orally in court.
4. The court's decision.
5. Drafting the court's order.

Scheduling a Court Hearing

How to pick a court hearing date

When setting a court date, you should speak with the registry staff in the BC Supreme Court that you are conducting your judicial review in. Different registries at different BC courthouses have their own processes for scheduling hearings and it is best to know the details of the registry you are working with.

In order to decide on the hearing date, contact the registry to determine what dates are available and then discuss what dates will work with the other parties. Pick a date that works for everyone.

There are two basic ways to set a date for your court hearing. Which one you use depends on how long you have estimated your case will take.

Hearings 2 hours or less

If your judicial review will take 2 hours or less, you can set the hearing for 9:45 a.m. on any day the court hears petitions. In Vancouver, this is every weekday, but some other registries can only hear petitions on certain days.

Hearings over 2 hours

If your judicial review will take more than 2 hours, you will need to set a date through the court registry through Supreme Court Scheduling. Call the registry and ask when they next have available dates for a petition hearing in front of a judge. If there are no hearing dates available when you call, ask when the court will be opening up new dates you can book. It will probably be at least a month or two before you can get a court date. Once you have a court date, confirm the date with all parties right away so they continue to hold the date.

Notice of hearing

Once you have a court date set, you must prepare, file, and serve a notice of hearing. You must do this regardless of how long your hearing is set for. Once you have prepared the notice of hearing, you must file it in the court registry. The court registry staff will stamp the notice of hearing when it is filed.

Even if you have already told the other parties about the hearing date, you must formally file and serve a notice of hearing. You must serve a stamped copy of the notice of hearing on everyone who served you with a response to petition form. You have to do this at least 7 days before the hearing date. In calculating “at least 7 days” before the hearing date, you do not include either the day of the hearing, or the day you serve. For example, if you are setting a hearing for a Wednesday, then you have to serve the filed notice of hearing by the Tuesday the week before.

If no one has served you with a response to petition form, then you only need to prepare your notice of hearing and file it with the court, and you don’t need to serve it on anyone. In that case, you can file the notice of hearing any time before your hearing begins.

There is a sample notice of hearing that you can look at as an example on page 60.

Documents for a Court Hearing

Before you have your judicial review hearing, you will need to prepare the materials that the judge will look at to decide the case. These are:

- a written argument;
- a petition record; and
- you have the option of using legal authorities like cases or statutes, but you do not have to.

The goal of a written argument and a petition record is to make things easier for the judge. You are trying to present the case in an organized and concise way so that the judge can understand it quickly and easily find everything she or he might need.

Written argument

It is not mandatory to have a written argument. However, it is often a good idea to create a brief written argument that explains your case.

If your judicial review **will take more than 2 hours** and is scheduled for a specific date (see Scheduling a Court Hearing), you should give the judge a copy of your written argument so that she or he can follow it while you speak. The easiest way to do this is to include your written argument in your petition record.

You will also need to provide the other parties with a copy of your written argument. It is best to give it to the other parties a week or so before the hearing, to make sure that they have time to reply to it. If you don't give the other parties enough time, they may ask the court to adjourn the judicial review hearing until a later date.

If your judicial review **will take 2 hours or less** (see Scheduling a Court Hearing on page 30), the rules of court say you should not give the judge your written argument, so do not put the written argument in the petition record. It is still useful to draft a written argument to prepare what you are going to say to the judge. You can follow your written argument when you are speaking in court. It is a good idea to bring an extra copy of the written argument to court in case the judge asks to see it.

It is useful to get some legal advice on your argument, even if you do not have a lawyer to represent you in court.

If you draft a written argument, make it brief (no more than a few pages). Using short numbered paragraphs, briefly set out:

- the main facts you are relying on and where those facts are located in the affidavits that have been filed in your case;
- the error(s) you think the tribunal made;
- any statutes or other legal sources you are relying on; and
- what orders you are asking the court to make.

Petition record

You will also **need to prepare two copies of a binder called a “petition record”**. This is a binder containing all the materials that the judge may want to look at in the judicial review. The goal of the petition record is to make it easy for the judge to find documents and to understand your case.

One copy of the petition record will go to the judge, and you will keep the other copy for your reference. You will also have to provide a copy of an index of your petition record to all the other parties, so that they can create their own petition record that matches yours.

An index is a list of all the documents contained in the binder and the tab number where they can be found. It is similar to a table of contents.

There is a sample petition record index that you can look at as an example on page 62.

For blank documents, visit www.jrbc.ca/jr/forms/

Petition records **must** contain:

- a title page with the style of proceeding taped to the front of the binder;
- an index;
- a copy of your petition;
- a copy of any responses to petition filed; and
- a copy of every affidavit filed that you or the other parties will be referring to at the hearing.

If you wish, you can also put the following in your petition record:

- a draft of the order you are asking the court to make;
- a written argument;
- a list of authorities; and
- a draft bill of costs.

You cannot put the following in your petition record:

- affidavits proving service;
- copies of authorities; or
- any other documents, unless all parties agree.

Put each copy of your petition record in a 3 ring binder. Tape the title page to the front of the petition record binder, and make the index the first page inside the binder. It is a good idea to use tabs so that each document is separated and easy to find. Put the tab numbers on the index. If you do not have tabs, number all the pages of the petition record consecutively and put the number of the first page of each document in the index. Use copies of documents for the petition record, not originals.

There is a sample petition record title page that you can look at as an example on page 63.

For blank documents, visit jrbc.ca/jr/forms/.

Filing your petition record and serving the index

You will need to file the court's copy of your petition record **before 4:00 p.m. on the business day that is one full business day before the date set for the hearing**. For example, if the hearing is set for a Wednesday, you will need to file the petition record by 4:00 p.m. on the Monday of that same week (assuming there are no statutory holidays that week). If your hearing is set for a Monday, you will have to file the petition record by 4:00 p.m. on Thursday (again, assuming there are no statutory holidays). Because of storage constraints, the registry will not accept your petition record more than 3 business days before your hearing.

The registry needs an extra copy of your petition attached to the petition record. You should make an extra copy of your filed petition and highlight Part 1. Then use an elastic band to attach the highlighted copy of the filed petition to the front of the petition record binder that you intend to file.

Take it to the court registry and tell them your hearing date and say that you need to file the petition record. They will stamp it and take the binder so that the judge will have it at your hearing.

You must also serve the other parties with a copy of **just the index** of your petition record **before 4:00 p.m. on the business day that is one full business day before your hearing is set** (the same deadline as the deadline for filing your petition record). The other parties should already have copies of all the documents that belong in the petition record, so the index will let them make their own binder that matches yours. (NOTE: make sure that you have given the other parties a copy of your written argument, if you are using one.)

Authorities (cases or statutes)

If you plan to refer to any cases or statutes at the judicial review hearing, you will need to bring them to court. Authorities do not need to be filed with the court registry.

If you plan to use a lot of authorities, it is helpful to the court if you can put them together in binder. If you are going to do this, it's a good idea to tab the authorities and create an index (just like you did with the petition record) to make it easy for the judge to find things.

You will need enough copies of your authorities to make sure that you, the judge, and the other parties each have a copy. At the start of your case, give one copy to the court clerk and one to the other parties, and keep one for yourself.

Preparing to Present in Court

It is very important to prepare for your judicial review hearing. A judge may hear many cases in a day and you need to be able to present your case quickly and clearly. You also need to be able to answer any questions the judge might have. You and the respondents to your petition have to get the entire case done within the time you reserved for your judicial review, and the judge may have a lot of questions.

Spend some time thinking about how you can clearly explain your case to the judge. You should be able to reduce your case down to a few sentences. If you have a friend willing to listen, you should practice how you will explain things clearly to the judge.

It is important that you review all the judicial review documents, especially affidavits, and know where everything is in the petition record. Have all your documents organized so that you can find things quickly if you need to. It might be helpful to use post-it notes to flag important documents.

The day of the hearing

The courtrooms open at 9:45 am and court generally starts at 10:00 am. Do not be late for court. Get there well before the courtroom opens at 9:45.

Be sure to bring your petition record with you on the day of the hearing as well as all your other court documents. Also bring some spare paper and pens to take notes.

When you get to the courthouse, look for a list of cases being heard that day “in chambers”. Your hearing should be on the list under the style of cause (the case name). Go the courtroom that your hearing is scheduled in. If you are having trouble finding where your hearing is scheduled, ask a sheriff or the registry staff.

When you get to the courtroom, if court is not in session go up to the clerk’s desk at the front of the courtroom and tell the clerk your name and that you are representing yourself. If court is already in session, go quietly up to the clerk’s desk and hand him or her a piece of paper with your name and the style of cause of your case written on it.

Other cases may be scheduled for the same courtroom, so once you have given the clerk your name, you may have to wait until your case is called. If this is the case, go sit in the gallery (the seats in the back of the courtroom) and wait. Be patient and do not disrupt the court if other cases are going first.

Court generally runs from 10:00 am until 12:30 pm, and then from 2:00 pm until 4:00 pm. There is also a short break in the middle of the morning and afternoon.

You can bring a support person to court with you if you think that will make you more comfortable. The support person can either wait in the back of the courtroom for you, or you can ask the judge if they can be a “McKenzie Friend” and sit up at the counsel table with you. That way, your support person can take notes and pass you things if you need it. Your McKenzie friend cannot speak for you or represent you in the court without very special permission from

the judge. You should only request such permission if there is a good reason why you cannot represent yourself, for example if you have serious disabilities that limit your ability to explain things or handle the stress of court, or if your English is limited and you need the assistance of a friend with fluent English.

Presenting your case to the judge

When the court clerk calls your name, go up to the front of the courtroom. You can put your things on one of the tables at the front. If you are the petitioner, take the table on the right. When it's time to speak, you will stand at the podium.

When everyone is ready, including the judge, introduce yourself and spell your last name slowly. Tell the judge that you are representing yourself and you are the petitioner in the judicial review. The other parties (or their lawyers) will then introduce themselves.

The judge will then ask you to proceed with your case. The following tips will help you present your case:

- **Keep it short and simple.** Decide what you think is fundamentally wrong with the tribunal decision. Your job is to make the problem(s) with the tribunal's decision clear to the judge. Most judicial reviews can be reduced down to a few simple sentences. Make sure that you include all the important points, but keep it simple and as short as possible.
- **Stay on topic.** Once you have identified what is wrong with the tribunal's decision, stick to that. Focus on showing the judge specifically what is wrong with the tribunal's decision. It may be tempting to go into a lot of background, perhaps to try and make the other side look bad or make yourself look sympathetic, but that is almost never helpful. Going off topic distracts the judge and makes it harder to understand what is really wrong with the tribunal's decision. Again, you should be able to summarize your case in a few sentences.
- **Be polite and patient.** There is a lot of waiting in chambers and it can take time for your case to be called. Once your case is called, the judge may want you to slow down, and you may have to listen to the other side say things that you do not agree with. Sometimes the judge might be having a bad day. Stay calm, do not get frustrated, and do not talk over other people (especially the judge!).
- **Be organized.** The more organized you are, the clearer you can make things for the judge. Remember, your job is to help the judge see why the tribunal's decision is problematic. When presenting to the judge, come up with an organized way to explain your case. Chronological order is often a good way to organize a presentation, but there may be other approaches that make sense.

The judge will have the petition record in front of her or him, but it is important to realize that the judge may not have read everything. Some helpful things you should do to get your case across are:

- Give a very brief summary of what you are asking for and what your case is about (a couple of sentences).

- If the other parties are not there, tell the judge how and when you served the other parties with your court materials.
- You can follow your written argument when making your presentation to the court. If you included your written argument in your petition record, you can ask the judge to read your written argument along with you.
- Go over the facts in an organized way.
- Go over the legal issues and the specific errors you are saying the tribunal made.
- Show the judge the evidence that supports your case by pointing out where the evidence is in the affidavits in the petition record (use the tab numbers and page numbers to help the judge find the documents).

The judge may well interrupt you and ask you questions. Be patient and try to answer the questions honestly and simply. If you need a minute to find something, or if you don't understand what is being asked, politely tell the judge.

Once you are finished, the other parties will have a chance to present their case and why they do not agree with your judicial review. It is important to listen quietly and not interrupt. Take notes on what they are saying. When they are finished, the judge may give you a brief time to reply to what they said.

You can read a sample of what someone might say to a judge in a judicial review on page 64.

The Court's Decision

The judge may give you an oral judgment right at the end of your hearing, or she or he might reserve the decision until another day. This means that the judge will think about your case and release a decision at a later date. The judge will tell you at the end of the hearing whether judgment is being reserved.

If judgment is reserved, you may have to come back to court on another day to hear the judge give an oral decision. The other option is that the judge may give written reasons, in which case the registry will contact you before the reasons are released. You then can get the reasons by e-mail or you can go to the courthouse and get a paper copy of the reasons.

If the judge gives oral reasons, pay attention to what the judge is saying, and try to write it all down. If you have a friend with you, ask him or her to write it down as well.

Generally, listen for:

- Whether the court has “set aside” or “quashed” the tribunal’s decision;
- Whether the court makes some other type of order; and
- Whether the judge orders court costs.

Unless the judge tells you otherwise, the judge’s decision is in effect from the date it is pronounced, even if a written order has not been drafted yet.

The party that loses the judicial review can appeal the decision to the BC Court of Appeal within thirty days from the date the court issues its order. You should get legal advice if you are considering an appeal.

Drafting the Court's Order

Generally the winning party drafts the court order. The only exception is when all parties are representing themselves, when sometimes the judge will ask the court registry to draft the order. Usually, if you win, you should prepare the court order.

To be able to draft the order, you will need to know exactly what the judge said. Listen carefully to the judge. Make sure to note whether the judge orders or mentions court costs. If you win the judicial review, you can assume that you are entitled to court costs unless the judge expressly says that you are not.

If you can't remember or did not understand what the judge said, you can look at the court clerk's notes at the court registry or through Court Services Online. If necessary, you can order a transcript of the reasons or listen to the recording of the hearing at the court registry.

To draft the order, you will need:

- the name of the judge that heard your judicial review;
- the date of the hearing; and
- what the judge ordered, including whether the judge said that either party was entitled to court costs (if you think you are entitled to court costs and want to claim them, you must put it in the order).

Once you have drafted the order, it must be approved and signed by you and all the parties that appeared at the judicial review hearing, unless the court orders otherwise.

Once all the parties that appeared at the hearing have signed the order, you need to take it to the court registry and tell them that you want to file it. Keep a copy of the unfiled order for your records.

There is a sample order that you can look at as an example on page 65.

For blank documents, visit www.jrbc.ca/jr/forms/

Sample Documents

Petition for Judicial Review, 40.

Affidavit in Support of Petition, 44.

Requisition for Fee Waiver, 46.

Order to Waive Fees, 48.

Affidavit for Fee Waiver, 49.

Service Letter 59.

Notice of Hearing, 60.

Petition Record Index, 62.

Petition Record Title Page, 63.

Oral Presentation, 64.

Order Made After Application, 65.

No. 0123067
Vancouver Registry

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

PETITION TO THE COURT

ON NOTICE TO:

Betty Jones
4321 GHI Drive
Vancouver, BC V1V 1V1

Director
Residential Tenancy Branch
400 – 5021 Kingsway
Burnaby, BC V5H 4A5

Deputy Attorney General
Ministry of Justice
PO Box 9280 Stn Prov Govt
Victoria, BC V8W 9J7

This proceeding has been started by the petitioner(s) for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

- (a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or
- (d) if the time for response has been set by order of the court, within that time.

- (1) The address of the registry is:

Law Courts, 800 Smithe Street, Vancouver, BC, V6Z 2E1

- (2) The ADDRESS FOR SERVICE of the petitioner(s) is:

Don Smith,
1234 ABC Street
Vancouver, BC V1V 2V2

Fax number address for service (if any) of the petitioner(s): N/A

E-mail address for service (if any) of the petitioner(s): N/A

- (3) The name and office address of the petitioner's(s') lawyer is: N/A

Claim of the Petitioner(s)

Part 1: ORDER(S) SOUGHT

1. The petitioner applies for an order setting aside the June 25, 2010 decision of Arbitrator H. Hetter (the “Decision”), which upheld a Notice to End Tenancy respecting 1234 ABC Street, Vancouver, BC (the “Rental”).
2. The petitioner applies for an Order setting aside the Order of Possession issued by Arbitrator H. Hetter, dated June 25, 2010, respecting the Rental (the “Order of Possession”).

3. The petitioner applies for an Interim Order staying the Decision and the Order of Possession until the final disposition of this judicial review, pursuant to s. 10 of the *Judicial Review Procedure Act*.
4. Costs.
5. Such other order as the court deems just.

Part 2: FACTUAL BASIS

1. The petitioner is a tenant and resides at 1234 ABC Street, Vancouver, BC. He pays \$575 per month in rent.
2. The petitioner's landlord is the respondent Betty Jones (the "Landlord").
3. On May 13, 2010 the petitioner was served with a 1 Month Notice to End Tenancy for cause.
4. The petitioner did not know why he was being evicted.
5. The petitioner applied to the Residential Tenancy Branch to cancel the Notice to End Tenancy on May 17, 2010.
6. The petitioner never received any documents or evidence from the Landlord.
7. A dispute resolution hearing was held by telephone conference call on June 25, 2010. Shortly after the hearing started, the Arbitrator and the Landlord started discussing documents submitted as evidence by the Landlord.
8. The Arbitrator indicated that the Landlord had submitted copies of letters sent to the petitioner requesting that he stop smoking in the Rental.
9. The petitioner had never received any such letters. During the June 25, 2010 hearing, the petitioner told the Arbitrator that he did not have copies of the warning letters and had not received the Landlord's evidence.
10. The petitioner testified that he was never told that he was not allowed to smoke, and never received any warnings or requests to stop smoking.
11. The Arbitrator issued the Decision on June 25, 2010 upholding the Landlord's 1 Month Notice to End Tenancy for cause and granted the Landlord an Order of Possession, effective July 31, 2010.

Part 3: LEGAL BASIS

1. The petitioner will rely on the following:
 - (a) *Residential Tenancy Act*,

- (b) *Judicial Review Procedure Act*,
- (c) *Administrative Tribunals Act*,
- (d) Rules of Court, and
- (e) The inherent jurisdiction of the court.

2. The legal grounds on which this petition is brought are as follows:

- (a) The Arbitrator failed to act fairly in all the circumstances by making a decision based on evidence that was not disclosed to the petitioner. As a result, the petitioner did not know the case against him or have an opportunity to respond to it.
- (b) By doing so, the Arbitrator made a reviewable error and breached the rules of procedural fairness.

MATERIAL TO BE RELIED ON

1. Affidavit #1 of Don Smith made July 5, 2010.

The petitioner(s) estimate(s) that the hearing of the petition will take 90 minutes.

Date: July 5, 2010



Signature of
 petitioner lawyer for petitioner(s)
 Don Smith

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this petition

with the following variations and additional terms:

.....

Date:

.....
 Signature of Judge Master

This is the 1st affidavit
of Don Smith in this case and
was made on July 5, 2010

No. 0123067
Vancouver Registry

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

AFFIDAVIT

I, Don Smith, of 1234 ABC Street, Vancouver, British Columbia, a dish washer/cashier,
SWEAR (OR AFFIRM) THAT:

1. I am the petitioner in this matter and I have personal knowledge of the matters I refer to in this affidavit.
2. I am a tenant and I reside at 1234 ABC Street, Vancouver, BC (the "Rental"). I pay \$575 per month in rent.
3. My landlord is the respondent Betty Jones (the "Landlord").
4. On May 13, 2010 I was served with a 1 Month Notice to End Tenancy for cause. I found the Notice on my door.
5. I did not know why I was being evicted.
6. I tried to ask my Landlord why I was being evicted, but she did not return my calls.
7. I applied to the Residential Tenancy Branch to cancel the Notice to End Tenancy on May 17, 2010. A copy of my application for dispute resolution is attached to

this affidavit as Exhibit A. **[NOTE:** Copies of Exhibit A (the Notice to End Tenancy), Exhibit B (the decision) and Exhibit C (the order of possession) would then be attached to this affidavit and marked as exhibits. A commissioner for taking oaths will be able to mark the documents as exhibits. It is essential that you bring the exhibits with you to the commissioner for taking oaths.]

8. I never received any documents or evidence from the Landlord.
9. A Dispute Resolution Hearing was held by telephone conference call on June 25, 2010. Shortly after the hearing started, the Arbitrator and the Landlord started discussing documents that they said had been submitted as evidence by the Landlord.
10. The Arbitrator indicated that the Landlord had submitted copies of warning letters sent to me requesting that I stop smoking in the Rental.
11. I had never received any such letters from my Landlord.
12. During the June 25, 2010 hearing, I told the Arbitrator that I did not have copies of the warning letters, and that I had not received copies of any evidence from the Landlord.
13. At the hearing I also testified that I had smoked in the Rental, but that I was never told that I was not allowed to smoke in the Rental and that the Landlord never warned me not to smoke or requested that I stop smoking.
14. The Residential Tenancy Branch issued a decision on June 25, 2010 upholding the Landlord's 1 Month Notice to End Tenancy for cause. A copy of that decision is attached to this affidavit as Exhibit B.
15. The Arbitrator also granted the Landlord an Order of Possession, effective July 31, 2010. A copy of that Order is attached to this affidavit as Exhibit C.

SWORN (OR AFFIRMED) BEFORE ME)
at Vancouver, British Columbia)
on July 5, 2010.)
)
_____)
A commissioner for taking affidavits)
for British Columbia)

Don Smith

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

**REQUISITION
FOR FEE WAIVER**

Filed by: Don Smith

Required: an order pursuant to Rule 20-5 that Don Smith, the petitioner, be declared impoverished with respect to the fees set forth in Appendix C, Schedule 1, of the Rules of Court, as they apply to this application and the within proceedings generally.

This requisition is supported by the following:

1. Affidavit #2 of Don Smith made July 5, 2010.

Date: July 5, 2010



Signature of
[X] filing party [] lawyer for filing party

Don Smith

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between: Don Smith Petitioner

And: Betty Jones Respondent

ORDER TO WAIVE FEES

BEFORE) THE HONOURABLE)
) JUSTICE)
) _____)
))
) or) July, 5 2010
))
))
) MASTER _____)
))

ON THE APPLICATION of Don Smith coming on before me on July 5, 2010 and on hearing Don Smith;

THIS COURT ORDERS that no fee is payable by Don Smith to the government under Appendix C of the Supreme Court Civil Rules in relation to

- this proceeding
- the following part(s) of this proceeding:[describe part(s)]
- this proceeding during the following period(s):[describe period(s)]
- the following steps in this proceeding:[describe step(s)]

subject to the following:.....
.....

By the Court.
.....
Registrar

No. 0123067
Vancouver Registry

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, C. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

ORDER TO WAIVE FEES

Don Smith,
1234 ABC Street
Vancouver, BC V1V 2V2
(604)-123-4567

This is the 2nd affidavit
of Don Smith in this case and
was made on July 5, 2010

No. 0123067
Vancouver Registry

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

AFFIDAVIT FOR FEE WAIVER

I, Don Smith, of 1234 ABC Street, Vancouver, British Columbia, a dish washer/cashier,
SWEAR (OR AFFIRM) THAT:

1. I am the petitioner in this proceeding.
2. I make this affidavit in support of my application for an order that I be declared impoverished with respect to the payment of fees set out in Schedule 1 of Appendix C of the Supreme Court Civil Rules.
3. I am 34 years old.
4. I have the following dependants:

None
5. The following persons contribute to my household expenses:

Only myself
6. I am (check which applies) [] employed [] unemployed.

7. Attached as Exhibit A is a financial statement that accurately sets out the monthly income, expenses and assets of my household.
8. Attached as Exhibit B is an accurate description of my educational and employment history.
9. Attached as Exhibit C is an accurate description of my workplace skills.
10. Attached as Exhibit D is a copy of the document I wish to file or with which I wish to proceed.

SWORN (OR AFFIRMED) BEFORE ME
at Vancouver, British Columbia
on July 5, 2010.

A commissioner for taking affidavits
for British Columbia

)
)
) _____
) Don Smith
)
)
)

This is Exhibit A referred to in the affidavit of Don Smith, sworn (or affirmed) before me on July 5, 2010

A commissioner for taking affidavits for British Columbia

FINANCIAL STATEMENT

ESTIMATED NET MONTHLY INCOME

Estimated net monthly income from all sources:

Employment	\$.1400.....
Pension	\$.....
Interest and Dividends	\$.....
Other	\$.....
TOTAL (Estimated net monthly income)	\$.1400.....

ESTIMATED MONTHLY EXPENSES

Estimated monthly expenses related to housing	\$.575.....
Estimated monthly expenses for transportation	\$.250.....
Estimated monthly household expenses including utilities	\$.225.....
Estimated monthly medical and dental expenses	\$.125.....
Estimated monthly expenses related to dependent children	\$.....
Estimated monthly debt payments [<i>specify</i>]	\$.150 (VISA)..
Estimate of other monthly expenses [<i>specify</i>]	\$.....
TOTAL (Estimated monthly expenses)	\$.1325.....

ASSETS

.....	\$.....
.....No significant assets	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
.....	\$.....
TOTAL (Estimated asset value)	\$..0.....

This is Exhibit B referred to in the affidavit of Don Smith, sworn (or affirmed) before me on July 5, 2010

A commissioner for taking affidavits for British Columbia

EDUCATIONAL AND EMPLOYMENT HISTORY

Highest level of education attained and date completed:

.....Grade 12 completed in 1995

.....

Most recent employer: Munchees Snack Bar

Dates: 2005-present

Position: Cashier

Previous employer: Joe's Deli

Dates: 2003-2005

Position: Dishwasher/bus person

Previous employer: The Kwatchi Grill

Dates: 1997-2003

Position: Dishwasher/bus person

This is Exhibit C referred to in the affidavit of Don Smith, sworn (or affirmed) before me on July 5, 2010

A commissioner for taking affidavits for British Columbia

WORKPLACE SKILLS

.....Handling cash, operating cash register, serving, busing tables.....

.....

.....

No. _____
Vancouver Registry

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

PETITION TO THE COURT

ON NOTICE TO:

Betty Jones
4321 GHI Drive
Vancouver, BC V1V 1V1

H. Hetter, Arbitrator
Residential Tenancy Branch
400 – 5021 Kingsway
Burnaby, BC V5H 4A5

Attorney General of British Columbia
Legal Services Branch
6th Floor, 1001 Douglas Street
Victoria, BC V8V 1X4

*This is Exhibit D referred to in the
affidavit of Don Smith, sworn
(or affirmed) before me on July 5, 2010*

*A commissioner for taking
affidavits for British Columbia*

This proceeding has been started by the petitioner(s) for the relief set out in Part 1 below.

If you intend to respond to this petition, you or your lawyer must

- (a) file a response to petition in Form 67 in the above-named registry of this court within the time for response to petition described below, and
- (b) serve on the petitioner(s)
 - (i) 2 copies of the filed response to petition, and
 - (ii) 2 copies of each filed affidavit on which you intend to rely at the hearing.

Orders, including orders granting the relief claimed, may be made against you, without any further notice to you, if you fail to file the response to petition within the time for response.

Time for response to petition

A response to petition must be filed and served on the petitioner(s),

(a) if you reside anywhere within Canada, within 21 days after the date on which a copy of the filed petition was served on you,

(b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed petition was served on you,

(c) if you reside elsewhere, within 49 days after the date on which a copy of the filed petition was served on you, or

(d) if the time for response has been set by order of the court, within that time.

(1) The address of the registry is:

Law Courts, 800 Smithe Street, Vancouver, BC, V6Z 2E1

(2) The ADDRESS FOR SERVICE of the petitioner(s) is:

Don Smith,
1234 ABC Street
Vancouver, BC V1V 2V2

Fax number address for service (if any) of the petitioner(s): N/A

E-mail address for service (if any) of the petitioner(s): N/A

(3) The name and office address of the petitioner's(s') lawyer is: N/A

Claim of the Petitioner(s)

Part 1: ORDER(S) SOUGHT

1. The petitioner applies for an order setting aside the June 25, 2010 decision of Dispute Resolution Officer H. Hetter (the "Decision"), which upheld a Notice to End Tenancy respecting 1234 ABC Street, Vancouver, BC (the "Rental").
2. The petitioner applies for an Order setting aside the Order of Possession issued by Dispute Resolution Officer H. Hetter, dated June 25, 2010, respecting the Rental (the "Order of Possession").

3. The petitioner applies for an Interim Order staying the Decision and the Order of Possession until the final disposition of this judicial review, pursuant to s. 10 of the *Judicial Review Procedure Act*.
4. Costs.
5. Such other order as the court deems just.

Part 2: FACTUAL BASIS

1. The petitioner is a tenant and resides at 1234 ABC Street, Vancouver, BC. He pays \$575 per month in rent.
2. The petitioner's landlord is the respondent Betty Jones (the "Landlord").
3. On May 13, 2010 the petitioner was served with a 1 Month Notice to End Tenancy for cause.
4. The petitioner did not know why he was being evicted.
5. The petitioner applied to the Residential Tenancy Branch to cancel the Notice to End Tenancy on May 17, 2010.
6. The petitioner never received any documents or evidence from the Landlord.
7. A dispute resolution hearing was held by telephone conference call on June 25, 2010. Shortly after the hearing started, the Dispute Resolution Officer and the Landlord started discussing documents submitted as evidence by the Landlord.
8. The Dispute Resolution Officer indicated that the Landlord had submitted copies of letters sent to the Petitioner requesting that he stop smoking in the Rental.
9. The petitioner had never received any such letters. During the June 25, 2010 hearing, the petitioner told the Dispute Resolution Officer that he did not have copies of the warning letters and had not received the Landlord's evidence.
10. The petitioner testified that he was never told that he was not allowed to smoke, and never received any warnings or requests to stop smoking.
11. The Dispute Resolution Office issued the Decision on June 25, 2010 upholding the Landlord's 1 Month Notice to End Tenancy for cause and granted the Landlord an Order of Possession, effective July 31, 2010.

Part 3: LEGAL BASIS

1. The petitioner will rely on the following:
 - (a) *Residential Tenancy Act*,
 - (b) *Judicial Review Procedure Act*,
 - (c) *Administrative Tribunals Act*,
 - (d) Rules of Court, and
 - (e) The inherent jurisdiction of the court.

2. The legal grounds on which this petition is brought are as follows:
 - (a) The Dispute Resolution Officer failed to act fairly in all the circumstances by making a decision based on evidence that was not disclosed to the petitioner. As a result, the petitioner did not know the case against him or have an opportunity to respond to it.
 - (b) By doing so, the Dispute Resolution Officer made a reviewable error and breached the rules of procedural fairness.

MATERIAL TO BE RELIED ON

1. Affidavit #1 of Don Smith made July 5, 2010.

The petitioner(s) estimate(s) that the hearing of the petition will take 90 minutes.

Date: July 5, 2010



Signature of
 petitioner lawyer for petitioner(s)
 Don Smith

To be completed by the court only:

Order made

in the terms requested in paragraphs of Part 1 of this petition

with the following variations and additional terms:

.....

Date:

.....
 Signature of Judge Master

BC Judicial Review Self Help Guide

July 6, 2010

SERVED BY HAND

Betty Jones
4321 GHI Drive
Vancouver, BC V1V 1V1

SERVED BY REGISTERED MAIL

Director
Residential Tenancy Branch
400 – 5021 Kingsway
Burnaby, BC V5H 4A5

Deputy Attorney General
Legal Services Branch of the Ministry of Justice
3rd Floor – 1001 Douglas Street
Victoria, BC V8W 2C5

Dear Sirs/Mesdames:

Re: Don Smith v. Betty Jones
BCSC File No: 0123067, Vancouver Registry

I am enclosing the following documents for service on you:

- My petition for judicial review, filed July 5, 2010;
- My affidavit in support of my judicial review, filed July 5, 2010

Yours truly,



Don Smith,
1234 ABC Street
Vancouver, BC V1V 2V2

No. 0123067
Vancouver Registry

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

NOTICE OF HEARING

To: Betty Jones

Director, Residential Tenancy Branch

Attorney General of British Columbia

TAKE NOTICE that the petition of Don Smith dated July 5, 2010 will be heard at the courthouse at 800 Smithe Street, Vancouver, BC on July 29, 2010 at 9:45 a.m.

1. Date of hearing

The parties have agreed as to the date of the hearing of the petition.

The parties have been unable to agree as to the date of the hearing but notice of the hearing will be given to the petition respondents in accordance with Rule 16-1(8)(b) of the Supreme Court Rules.

The petition is unopposed, by consent or without notice.

2. Duration of hearing

It has been agreed by the parties that the hearing will take 90 minutes.

The parties have been unable to agree as to how long the hearing will take and

BC Judicial Review Self Help Guide

- (a) the time estimate of the petitioner(s) is..... minutes, and
(b) the time estimate of the petition respondent(s) is minutes,
 the petition respondent(s) has(ve) not given a time estimate.

3. Jurisdiction

This matter is within the jurisdiction of a master.

This matter is not within the jurisdiction of a master.

Date: July 15, 2010



Signature of
 petitioner lawyer for petitioner(s)

Don Smith

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

PETITION RECORD INDEX

<u>Tab No.</u>	<u>Document</u>
1.	Petition, filed July 5, 2010
2.	Response to petition of Betty Jones, filed July 13, 2010
3.	Affidavit of Don Smith, sworn July 5, 2010
4.	Written argument of the petitioner
5.	Written argument of the respondent, Betty Jones

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

PETITION RECORD

Don Smith, self-representing petitioner
1234 ABC Street
Vancouver, BC V1V 2V2

Betty Jones, self-representing respondent
4321 GHI Drive
Vancouver, BC V1V 1V1

Date of hearing: July 29, 2010
Time of hearing: 9:45 a.m.
Place of hearing: 800 Smithe Street, Vancouver
Time estimate: 90 minutes
Petition Record provided by: Don Smith

This is an example of how someone might begin to verbally present a judicial review of a Residential Tenancy Branch Decision to a BC Supreme Court judge:

1. My name is Don Smith. I am representing myself as the petitioner in this judicial review. I am asking the court to set aside the decision of Arbitrator Hetter made June 25, 2010. I am a tenant and that decision upheld my eviction and issued an order of possession for July 31, 2010. I am asking the court to set aside that decision and order.
2. I have included a written argument at tab 4 of my petition record. I will go over that argument.
3. I served the petition, affidavit and notice of this hearing on my landlord. A lawyer for the Attorney General and the Residential Tenancy Branch has informed me that they will not be appearing.
4. This is a judicial review of a decision made by an Arbitrator under the Residential Tenancy Act.
5. The Arbitrator upheld my eviction because he found that I had smoked in my rental unit despite written warnings not to do so.
6. I am asking that the Arbitrator's decision be set aside because the Arbitrator went ahead with the hearing even though I explained that I did not get copies of my landlord's evidence for the hearing. My landlord did not serve me anything. I do not know what the evidence was and I was not able to respond to it.
7. The Arbitrator found I had been warned in writing about smoking. In fact, I was never warned, and I did not get a copy of the evidence my landlord submitted to show that I was warned.
8. I told the Arbitrator that I did not have any of the evidence and he did not stop the hearing or ask my landlord if she served me with her evidence.
9. I think the Arbitrator failed to act fairly by not making sure I was properly served with the case against me so that I could respond to it.

In the Supreme Court of British Columbia
In the Matter of the *Judicial Review Procedure Act* R.S.B.C. 1996, c. 241

Between:

Don Smith

Petitioner

And:

Betty Jones

Respondent

ORDER MADE AFTER APPLICATION

BEFORE))
) THE HOUNOURABLE) July 29, 2010
) JUSTICE LAW)
))

ON APPLICATION of Don Smith

coming on for hearing at Vancouver, British Columbia on July 29, 2010 and on hearing Don Smith and Betty Jones;

without notice coming on for hearing at _____ on _____ and on hearing _____;

THIS COURT ORDERS that:

1. The decision and order granted by Arbitrator H. Hetter on June 25, 2010 be set aside and the matter be remitted back to the Residential Tenancy Branch for a new hearing; and

2. The petitioner will have costs against the respondent Betty Jones for this petition.

APPROVED AS TO FORM



Signature of
 party lawyer for
Don Smith

Signature of
 party lawyer for
Betty Jones

By the Court.

Registrar

In the Supreme Court of British Columbia

Between:

Don Smith, Petitioner

And:

Betty Jones, Respondent

ORDER MADE AFTER APPLICATION

Don Smith,
1234 ABC Street
Vancouver, BC V1V 2V2
(604)-123-4567