

1.
2.

No. (Court file number)
(Court registry) Registry

In the Supreme Court of British Columbia

Between:

(Your name(s))

Petitioner(s)

3.

And:

(Name(s) of respondent(s))

Respondent(s)

**NOTICE OF APPLICATION
(INTERIM STAY)**

Name(s) of applicant(s): (your name)

4.

To: (names of all the parties in the "On Notice To" section of your petition

OR

5.

"WITHOUT NOTICE" if you are asking for a WITHOUT NOTICE interim stay)

6.

TAKE NOTICE that an application will be made by the applicant(s) to the presiding judge or associate judge at the courthouse at (address of courthouse) on (date of hearing) at 9:45 a.m. for the order(s) set out in Part 1 below.

The applicant(s) estimate(s) that the application will take: 10 minutes.

This matter is not within the jurisdiction of an associate judge.

Part 1: ORDER(S) SOUGHT

1. An order staying the order of possession dated (date) until the determination of this judicial review or until such other date as this Court sees fit.

Part 2: FACTUAL BASIS

1. The order of possession dated (date) takes effect on (effective date of order of possession).
2. If an interim stay is not granted, then (your name) will lose his/her home at (rental address).
3. An interim stay of the order of possession pending the outcome of the judicial review will not cause significant hardship to any of the other parties.

Part 3: LEGAL BASIS

1. There is a serious issue to be tried.
2. The applicant(s) will suffer irreparable harm if the interim stay is not granted.
3. The balance of convenience favours granting an interim stay.
4. The applicant(s) will also be relying on Rule 8 of the Supreme Court Civil Rules.

Part 4: MATERIAL TO BE RELIED ON

7. 1. (In numbered paragraphs, list any affidavits you will rely on)

TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION: If you wish to respond to this notice of application, you must, within 5 business days after service of this notice of application or, if the application is brought under Rule 9-7, within 8 business days after service of this notice of application,

- (a) file an application response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
 - (i) you intend to refer to at the hearing of this application, and
 - (ii) has not already been filed in the proceeding; and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
 - (i) a copy of the filed application response;
 - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
 - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: (Date)

(Your signature)

Signature of
[X] Applicant [] lawyer for applicant(s)

(Your name - clearly print or type)

To be completed by the court only:

Order made:

[] in the terms requested in paragraphs of Part 1 of this notice of application

[] with the following variations and additional terms:

.....
.....
.....

Date:

Signature of [] Judge [] Associate Judge

APPENDIX

THIS APPLICATION INVOLVES THE FOLLOWING:

[X] none of the above

Instructions

1. This is where the court file number goes. You will leave this blank on the first court documents you file (see the Example Petition). When you file your initial documents to start your judicial review, the registry will assign a file number and stamp it on the top right hand corner of your documents for you. After that, you must put the assigned file number on any additional court documents you file. The file number lets the registry know what file the documents will go into.
2. This where you put the name of the court registry you are filing with. The BC Supreme Court has the following registries:

• Campbell River	• Kelowna	• Rossland
• Chilliwack	• Nanaimo	• Salmon Arm
• Courtenay	• Nelson	• Smithers
• Cranbrook	• New Westminster	• Terrace
• Dawson Creek	• Penticton	• Vancouver
• Duncan	• Port Alberni	• Vernon
• Fort Nelson	• Powell River	• Victoria
• Fort St. John	• Prince George	• Williams Lake
• Golden	• Prince Rupert	•
• Kamloops	• Quesnel	•

3. In this space, put the name of the respondent or respondents. Usually, the respondents are whichever people or organizations were on the other side at the hearing. For example, the landlord is the respondent if you are a tenant seeking a judicial review of a Residential Tenancy Branch decision. Naming the respondent(s) is a very important step, so you should get legal advice to make sure that you are naming the correct respondent(s). In most cases, it will be any other people or organizations that appeared before the Tribunal.
4. A regular interim stay application is suitable when you have enough time to apply for an interim stay within the regular court timelines. You can use a regular interim stay application if your eviction date is far enough away that you can get all your court documents prepared, filed and served **more than 2 weeks before the order of possession date**. If you take this approach you will have to:
 - Pick a hearing date that is on or before the eviction date, and put that date in your “notice of application” form;
 - Prepare and file your court documents as soon as possible;
 - Serve your documents at least 8 business days before the hearing date (see important note below);
 - Go in front of a judge on the hearing date and ask for an interim stay; and
 - Serve the interim stay order (if you get it) on your landlord.

Important note: In calculating “at least 8 business days” before the hearing date, do not include either the day of the hearing, or the day you serve. Also, keep in mind that a “business day” is any day when the court registry is open (which usually means any week day that is not a statutory holiday). For example, if you are setting a hearing for a Wednesday, you will have to file and serve the court documents by the Thursday nearly two weeks earlier, assuming there are no statutory holidays those weeks.

5. A without notice interim stay application is necessary when the effective date of **the order of possession is less than 2 weeks away**. In a without notice interim stay application, you will ask the court for an interim stay without giving your landlord and the other parties any formal legal notice of your application because you do not have time to do so within the regular court timelines.

If you make a without notice interim stay application you will have to:

- Prepare and file your court documents as soon as possible; and
- Go in front of a judge, usually on the same day you file the court documents, and ask for an interim stay without notice to the other parties.

Important Note: Do not intentionally wait until shortly before the eviction date to prepare your documents. If you are able to file a regular interim stay application, you should do so. The without notice option is for when you do not have enough time to get a interim stay under the regular timelines.

Write the date when you plan to have the interim stay hearing.

6. Before filling in the date of hearing, speak with someone at the courthouse to see when a judge will be available. The Vancouver courthouse has judges available every day, but other courthouses may not.

IMPORTANT:

- a. Make sure the date of the hearing is before the effective date on your order of possession (or at the very latest, on the effective date). Otherwise, your landlord may be able to evict you before the court hearing.
 - b. Remember, if you are doing a “Regular” interim stay application, you will need to file the court documents and serve them on the other parties at least 8 *business* days before the hearing date. (see note 4)
7. List the affidavits you will be filing in this matter and serving with the petition. Each affidavit must be identified with the same information you have put on the top right corner of the affidavit. It will read something like: “Affidavit #(1, 2, etc.) of (name of person who swore the affidavit), made (date affidavit was sworn)”. Example:

“1. Affidavit #1 of Don Smith made July 5, 2021”