



Skilled Trades BC Appeal Board

Rules for Appeals under the *Skilled Trades BC Act*

Updated January 3, 2024

Introduction

The purpose of these rules is to facilitate the just and timely resolution of appeals to the appeal board under the *Skilled Trades BC Act*¹.

These rules for appeals to the Skilled Trades BC Appeal Board are made under section 11 of the *Administrative Tribunals Act*.² They must be read together with:

- the *Skilled Trades BC Act*,
- sections 1 to 20, 22, 24 to 42, 44, 46.2, 47(1) and (2), 48 to 55, 57, 58, 59.1, 59.2, 60 and 61 of the *Administrative Tribunals Act*, and
- practice directives issued by the Board under sections 12 and 13 of the *Administrative Tribunals Act*.

Rule 1 – Definitions

1(1) In these rules:

“Act” means the *Skilled Trades BC Act*, and amendments, and includes all regulations made under the *Act*;

“appeal” means an appeal to the Board under section 45(1) of the *Act* or a request for reconsideration of a decision referred to the Board by a review officer pursuant to section 43(3)(c) of the *Act*;

“Board” means the Skilled Trades BC Appeal Board continued under section 42 of the *Act*, and for the purpose of these rules includes the chair and members;

¹ *Skilled Trades BC Act*, SBC 2022, c 4

² *Administrative Tribunals Act*, SBC 2004, c 45

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“**appellant**” means a person bringing an appeal, or whose request for reconsideration has been referred to the Board, under the *Act*;

“**chair**” means the member designated as chair of the Skilled Trades BC Appeal Board under section 42(1)(a) of the *Act*;

“**intervener**” means a person the Board allows to participate in an appeal under section 33 of the *Administrative Tribunals Act* and Rule 10;

“**member**” means a member of the Board, the member designated as chair, or a panel of members;

“**participant**” means an appellant, respondent, or intervener;

“**panel**” means those members (1 or 3 members) designated by the Board Chair to hear an appeal

“**party**” means an appellant or respondent;

“**registry**” means the office for delivery of the Skilled Trades BC Appeal Board under Rule 3;

“**representative**” includes a lawyer or agent authorized to represent a person in an appeal;

“**respondent**” means the chief executive officer of Skilled Trades BC or their designate;

“**submission**” means written information or argument filed by a party or participant for consideration by the Board in support of, or in response to, an application or appeal.

RULE 2 – Starting the Appeal

2(1) To start an appeal, the appellant must deliver a **notice of appeal** to the Board and the respondent **within 30 days** of receiving notification of a decision appealed under section 45 of the *Skilled Trades BC Act*.

2(2) The notice of appeal must:

a) be in writing;

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- b) contain the appellant’s contact information as set out in Rule 4(2) including the trade workers identification number where applicable;
 - c) identify the specific matter being appealed, the decision that is being appealed, the person who made the decision, the date of the decision and the date the appellant was notified of the decision;
 - d) include a copy of the decision being appealed;
 - e) state why the decision should be changed and what outcome is requested; and
 - f) be signed by the appellant or the appellant’s lawyer or agent.
- 2(3)** If the notice of appeal appears to be deficient, the chair or the chair’s delegate will notify the appellant and the Board will allow the appellant a reasonable amount of time to correct the deficiency.

Rule 3 – Communications With the Appeal Board

- 3(1)** Unless the Board directs otherwise, all communication with the Board must be directed to the registry at the following address:

In person: Skilled Trades BC Appeal Board 4th Floor, 747 Fort Street Victoria, BC	Mailing address: PO BOX 9425 STN PROV GOVT Victoria, BC V8W 9V1
Email: info@stbcab.ca	Phone: 250-387-3464 Fax: 250-356-9923

- 3(2)** A document may be delivered to the registry by hand, mail, email, courier or fax or any other means authorized or permitted by the Board.
- 3(3)** A document that is delivered by fax must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date, and time of the transmission and a telephone number to contact if there are transmission problems.
- 3(4)** The registry’s hours of operation are from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding public holidays.

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- 3(5)** A document that is received after regular hours of operation is deemed to be delivered on the next day the registry office is open.

Rule 4 – Representation and Contact Information

- 4(1)** A participant may be represented by a lawyer or other agent.
- 4(2)** A participant must provide the Board and the other participants with contact information consisting of:
- a)** full name;
 - b)** current postal address in British Columbia;
 - c)** telephone number and fax or email address (if any); and
 - d)** contact information of the participant’s lawyer or other agent (if any).
- 4(3)** A participant must promptly notify the Board of any change in their contact information.

Rule 5 – Delivering Documents

- 5(1)** When a participant delivers a document to the Board, the participant must also deliver a copy of it to each of the other participants in the appeal in accordance with this rule.
- 5(2)** A document may be delivered to a person:
- a)** by leaving a copy of it with the participant in person
 - b)** by delivering a copy of it in accordance with the participant’s contact information; or
 - c)** by any other means permitted by the Board that allows for proof of receipt.
- 5(3)** A document that is delivered by fax must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission, and a telephone number to contact if there are transmission problems.

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- 5(4)** A document that is delivered after 4:30 pm, is deemed to be delivered on the next day that is not a Saturday, Sunday or public holiday.
- 5(5)** A document that is sent by mail is deemed delivered on the fifth day after it is mailed, excluding Saturday, Sunday, or public holiday, unless there is evidence to the contrary.
- 5(6)** If it is impractical to deliver a document by leaving a copy with the person, or by providing it in accordance with the person’s contact information if they are a participant, the Board may permit an alternate method of delivery to be used including notice by advertisement where necessary.
- 5(7)** To apply for authorization to deliver a document by an alternate method of delivery, a participant must deliver a written request to the Board that explains the reasons why it is not feasible to deliver a document to the person by leaving a copy of it with them or by providing it in accordance with the person’s contact information if they are a participant.

Rule 6 – Time Requirements

- 6(1)** In calculating time under these rules or in an order or direction of the Board:
 - a)** the number of days between two events is counted by excluding the days on which those events happen;
 - b)** if the last day of a time period for delivering a document or doing any other thing falls on a Saturday, Sunday or public holiday, the time ends on the next day that is not a Saturday, Sunday or public holiday.
- 6(2)** If the Board is satisfied that special circumstances warrant an extension of a time limit to start an appeal, it may grant an extension of time whether or not the time limit is already expired.
- 6(3)** The Board may also extend or reduce any time limit in these rules, whether or not the time limit is already expired, as the Board considers fair and appropriate in the circumstances.
- 6(4)** To apply to extend or reduce a time limit, a participant must deliver a written request to the Board that explains:
 - a)** the reason(s) the extension or reduction of the time limit is required;

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- b)** whether other participants agree to the extension or reduction of the time limit (if known); and
 - c)** whether any harm would result if the extension or reduction of the time limit is not granted.
- 6(5)** Before granting the extension or reduction of a time limit, the Board will give other participants an opportunity to be heard.

Rule 7 – Providing and Certifying the Appeal Record

- 7(1)** Subject to Rule 7(2), the appeal record consists of:
 - a)** the decision being appealed;
 - b)** the respondent’s reasons for decision;
 - c)** all documentary evidence, reports, policies, legislative provisions, and submissions considered by the respondent in making the decision,but it does not include solicitor-client privileged communications between the respondent and the respondent’s lawyer.
- 7(2)** For purposes of an appeal regarding a refusal to award an industry training credential or industry training recognition credential,
 - a)** the appeal record may include a breakdown of the results of an examination or test and, where applicable, the National Occupational Analysis that outlines the content areas of a relevant examination or test, but, subject to Rule 7(2)(b), it does not include a copy of any actual examination or any record of a question that has or is to be used on an examination or test, and
 - b)** upon the request of a party or on its own motion the Board may, after hearing from the parties, direct that all or part of an examination or test excluded under Rule 7(2)(a) be disclosed for purposes of the appeal or reviewed by the Board in confidence, to the exclusion of a party or parties, on terms the Board considers necessary to ensure the confidentiality and security of the examination or test and the proper administration of justice.

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- 7(3)** Where the Board orders disclosure of some or all of a relevant examination or test under Rule 7(2)(b) to a party or parties (or their counsel), the Board will require the parties' acknowledgement that the disclosure is only for the purpose of the appeal before the Board and that the information may not be disclosed to any other person without the express consent of the Board.
- 7(4)** Unless the Board authorizes otherwise, within 14 days after the delivery of the notice of appeal, the respondent must deliver the appeal record to the Board and to the appellant as required by Rule 7(1).
- 7(5)** The appeal record must be clearly legible, with sequential page numbering and a detailed table of contents, and when it contains more than 25 pages, each copy of the appeal record must be bound or secured in a binder or similar book.
- 7(6)** The appeal record must also include the written certification of the respondent that it is complete and accurate in all respects.

Rule 8 – Temporary Suspension of The Decision Being Appealed

- 8(1)** To apply for an order temporarily suspending the decision being appealed, a party must deliver a written request to the Board that explains:
- a)** the reason(s) a temporary suspension of the decision being appealed is required;
 - b)** whether the appeal concerns a serious issue;
 - c)** what harm will result if the order is not granted; and
 - d)** whether the other party agrees to the temporary suspension (if known).
- 8(2)** Before granting an application for temporary suspension of the decision being appealed, the Board will give the other party an opportunity to be heard.

Rule 9 – Removing, Adding, or Substituting Parties To An Appeal

- 9(1)** On its own initiative or on the application of a person, the Board may remove, add, or substitute a person as a party to an appeal.

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- 9(2)** An application to remove, add or substitute a party to an appeal may be made by delivering a written request to the Board that demonstrates the following apply:
- a)** the person to be removed as a party is not, or has ceased to be, a proper or necessary party to the appeal, or
 - b)** the person to be substituted or added as a party is a proper or necessary party to the appeal to ensure that all matters in the appeal are effectually adjudicated.
- 9(3)** The Board will give the parties an opportunity to be heard before removing, adding, or substituting a person as a party to an appeal.
- 9(4)** The Board will not add or substitute a person as an appellant without that person’s consent.

Rule 10 – Interveners

- 10(1)** A person may apply to participate as an intervener in an appeal by delivering a written request to the Board that demonstrates:
- a)** that the person can bring a valuable contribution or bring a valuable perspective to the appeal; and
 - b)** that the potential benefits of the intervention outweigh any prejudice to the party caused by it.
- 10(2)** The Board will give the parties an opportunity to be heard before granting an application to intervene in an appeal.
- 10(3)** The Board may limit or impose terms and conditions on the participation of the intervener on an appeal. Unless specifically authorized by the Board, an intervener may not submit evidence in an appeal.

Rule 11 – Other Applications on Preliminary or Interim Matters

- 11(1)** Other applications for directions or orders on preliminary or interim matters must be made, unless otherwise directed by the Board, by delivering a written request to the Board that explains the reason(s) the direction or order is required and whether other participants agree to it.

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11(2) Before granting an application for a direction or order on a preliminary or interim matter and except in extenuating circumstances, the Board will give other participants an opportunity to be heard.

Rule 12 – Appeal Management

12(1) The Board will manage the appeal process to ensure the just and timely hearing and resolution of appeals, including making recommendations, directions, and orders about any one or more of the following:

- a)** the identification and simplification of facts and issues;
- b)** the timely disclosure of documents, witness lists and the anticipated evidence of witnesses;
- c)** the form and delivery of documents or other evidence, admissions, agreed facts and submissions;
- d)** determining whether preliminary or interim matters or the hearing of an appeal will be conducted by any combination of written, electronic or oral hearing;
- e)** time estimates and scheduling matters; and
- f)** procedural matters brought to the Board by the participants in an appeal.

12(2) Unless the Board orders otherwise, the Board will set a schedule for the exchange of witness lists and witness “will-say” statements (a brief outline of the evidence that a witness is expected to give at an oral hearing) which will ensure the witness lists and “will-say” statements are exchanged at least three weeks prior to the hearing of the appeal.

12(3) Where a hearing is set to proceed orally, the Board will generally order each party to submit a “Statement of Points” at least one week prior to the hearing. The “Statement of Points” is a brief and concise written outline of each party’s position on the appeal.

12(4) Unless the Board orders otherwise, if a party wishes to include evidence in the appeal which is in addition to what is in the appeal record, they must do so at least 30 days prior to the hearing.

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Rule 13 – Appeal Management Conferences

- 13(1)** On its own initiative or at the request of a participant, the Board may schedule an appeal management conference by written notice to the participants and may direct the participants to deliver documents or submissions prior to the conference.
- 13(2)** An application to change the date of a scheduled appeal management conference must be made by delivering a written request to the Board that explains the reason(s) the change is required and whether other participants agree to it.
- 13(3)** Unless the Board authorizes otherwise, all participants or their representatives must attend appeal management conferences.
- 13(4)** The member or delegate appointed to conduct an appeal management conference may:
- a)** discuss clarification and simplification of issues on the appeal;
 - b)** discuss the parties' interest in mediation and/or mediate issues on the appeal;
 - c)** schedule the date, time and place for the hearing of the appeal;
 - d)** discuss the identification of agreed facts;
 - e)** discuss any evidence that will be required and the procedure that will be followed for the hearing of the appeal, including the order in which the parties will speak;
 - f)** order a participant to give another participant copies of documents by a set date or to allow another participant to inspect and copy documents by a set date;
 - g)** discuss and set a schedule for participants' delivery and exchange of documents and submissions;
 - h)** hear and decide applications on preliminary or interim matters, including applications to extend a time limit, compel a witness or order disclosure or cancel an order to compel a witness or disclosure, temporarily suspend the decision being appealed or adjourn a hearing date; or

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i) make any other recommendation, direction, or order for the just and timely resolution of the Appeal.

13(5) The member or delegate appointed to conduct the appeal management conference may, following the conference, issue a report that includes recommendations, directions, or orders made by the member or delegate and the consensus of the parties on any facts, issues, or procedural matters on the appeal.

13(6) A member who conducts an appeal management conference where confidential settlement matters are discussed will not, unless the parties agree, hear the merits of the appeal.

Rule 14 – Withdrawing or Settling the Appeal

14(1) To withdraw all or part of the appeal, the appellant must deliver written notice of withdrawal to the Board. The appellant may do this at any time before the Board has made its final decision disposing of the appeal and the Board will order that the appeal or part of it is dismissed.

14(2) To settle all or part of an appeal, the parties must deliver written notice of settlement to the Board. The notice of settlement may incorporate a request for the Board to make an order that includes the terms of settlement to the extent that those terms are consistent with the *Skilled Trades BC Act*.

Rule 15 – Summary Dismissal of the Appeal

15(1) To apply to the Board for an order summarily dismissing an appeal, a party must deliver a written request to the Board that demonstrates any one of the following:

- a) the appeal is not within the jurisdiction of the Board;
- b) the appeal was not filed within the applicable time limit;
- c) the appeal is frivolous, vexatious, or trivial or gives rise to an abuse of process;
- d) the appeal was made in bad faith or for an improper purpose or motive;

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- e) the appellant failed to diligently pursue the appeal or failed to comply with an order of the Board;
- f) there is no reasonable prospect the appeal will succeed; or
- g) the substance of the appeal has been appropriately dealt with in another proceeding.

15(2) The Board will give the parties an opportunity to be heard before summarily dismissing an appeal on the application of a party or on the Board's own initiative.

Rule 16 – Hearing An Appeal

16(1) The Board will schedule the written or oral (in-person or electronic) hearing of the appeal by written notice to the participants.

16(2) An application to change a scheduled hearing date must be made at the earliest opportunity and may be made:

- a) by delivering a written request to the Board that explains the reason(s) the change is required and whether the other participants agree to it; or
- b) if the hearing is underway, by verbal request to the member(s) hearing the appeal that explains the reason(s) the change is required and whether the other participants agree to it.

16(3) Before granting an application to change a scheduled date for hearing, and except in extenuating circumstances, the Board will give other participants an opportunity to be heard.

16(4) In considering whether to grant an application to change the scheduled date for hearing, the Board will have regard generally to the following factors:

- a) the reason(s) the change is required;
- b) whether the change will help resolve all or part of the appeal;
- c) whether and the extent to which prejudice will result if the change is granted or refused;

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- d) whether other participants agree to the change;
 - e) the reasonableness of delay in the progress of the appeal that will result from the change;
 - f) the number, length, and causes of previous delays in the progress of the appeal;
 - g) whether the change is necessary to ensure a fair hearing of the appeal; and
 - h) the public interest in the efficient and speedy conduct of appeals.
- 16(5)** The Board will generally require the respondent's case to be presented first, followed by the appellant's case. Where the Board determines it is appropriate, it may allow the presentation of reply evidence.
- 16(6)** The Board will generally require oral evidence to be given under oath or affirmation.
- 16(7)** Where timely notice of the hearing is given and a participant fails to attend at the hearing, the Board may proceed with the hearing and disposition of the appeal, without further notice to the participant.
- 16(8)** The Board will generally arrange for the recording of an oral hearing of an appeal by a qualified verbatim recorder.

Rule 17 – Witnesses

- 17(1)** To apply for an order to compel a witness to attend to give evidence at the hearing of the appeal or to produce a document or thing, a party must deliver a written request to the Board that:
- a) explains the reason(s) the order is required,
 - b) explains the efforts made to have the witness attend or produce a document voluntarily, and
 - c) demonstrates that the testimony of the witness or the document or thing to be produced is admissible and relevant to an issue in the appeal.

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- 17(2)** Unless the Board authorizes otherwise, an application for an order to compel a witness must be delivered to the Board at least 14 days before the witness is required to attend to give evidence at the hearing of the appeal or to produce a document or thing.
- 17(3)** Unless the Board authorizes otherwise, a summons to a witness must be delivered to the witness at least 7 days before the witness is required to attend to give evidence at the hearing of an appeal or to produce a document or other thing.
- 17(4)** At the time the summons is delivered, the participant summoning the witness must offer the witness reasonable estimated travelling expenses in advance of the required attendance.
- 17(5)** If a person will attend to give evidence at the hearing of the appeal or produce a document or thing voluntarily, an order to compel attendance or production is not necessary.

Rule 18 – Amending or Cancelling an Order to Attend or Produce

- 18(1)** A witness summoned to attend a hearing or produce a document or thing may apply to the Board to amend the terms of or to cancel the order by delivering a written request to the Board that explains the reason(s) the order should be cancelled, or its terms should be amended.
- 18(2)** An application to amend the terms of, or to cancel, a summons to a witness must also be delivered to the participant summoning the witness.
- 18(3)** Before amending the terms of or cancelling an order to attend or produce, the Board will give the participant who requested the order to compel a witness or production of a document or thing an opportunity to be heard.

Rule 19 – Expert Evidence

- 19(1)** Unless the Board authorizes otherwise, a participant who wishes to submit the evidence of an expert must deliver a report stating the qualifications and evidence of the expert:
- a) at least 30 days before the hearing of the appeal; or

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b) in the case of evidence of an expert submitted in response to an expert report delivered by another party, at least 7 days before the hearing date of the appeal.

19(2) Unless the Board authorizes or the other participants agree otherwise, a participant who submits the evidence of an expert must make the expert available for cross-examination at the hearing of the appeal.

Rule 20 – Access and Restriction of Access to Hearings and Documents

20(1) An oral hearing of an appeal will be open to the public unless the Board directs that all or part of the information be received to the exclusion of the public because in the opinion of the Board:

- a)** the desirability of avoiding disclosure in the interests of any person or participant affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or
- b)** it is not practicable to hold the hearing in a manner that is open to the public.

20(2) A document submitted in the hearing of an appeal will be accessible to the public unless:

- a)** the Board directs that all or part of the document be received to the exclusion of the public because, in the opinion of the Board, the desirability of avoiding disclosure in the interests of any person or participant affected or in the public interest outweighs the desirability of adhering to the principle that hearings be open to the public; or
- b)** the Board directs that all or part of the document be received in confidence to the exclusion of a participant or participants because, in the opinion of the Board, its nature requires that direction to ensure the proper administration of justice.

20(3) The evidence of a witness in the hearing of an appeal will be accessible to the participants on the appeal unless the Board directs that all or part be received in confidence to the exclusion of a participant or participants because, in the opinion of the Board, its nature requires that direction to ensure the proper administration of justice.

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20(4) The Board will not provide access to the following:

- a) personal notes, communications or draft decisions of a Board decision-maker;
- b) notes or records kept by a person appointed by the Board to conduct a dispute resolution process in relation to an appeal; or
- c) information received by the Board in the hearing, or part of the hearing, of an appeal from which the public or a participant was excluded.

Rule 21 – Non-Compliance

21(1) If a participant fails to participate in the appeal process in accordance with these rules or a procedural order or direction of the Board, the Board may:

- a) manage, hear, and dispose of the appeal without the participation of that participant including, if that participant is the appellant, summary dismissal of the appeal without hearing evidence, and
- b) make any other order or direction that the Board considers fair.

Rule 22 - Interpreters and Other Accommodations

22(1) If a party, a witness, or their representative requires an interpreter and/or any other accommodation (e.g. services to assist the visually or hearing impaired) to enable their meaningful participation at a hearing, the Board will, at the request of the participant or on its own motion, make every effort to accommodate the participant's needs, as is reasonable in the circumstances. The person requesting interpretation or other accommodation must notify the Board as early in the appeal process as possible.

22(2) Interpreters for other languages shall be competent and independent and shall swear or affirm that they will interpret accurately.