



Tribunals Ontario

Tribunaux décisionnels Ontario

Practice Directions

Ontario Civilian Police Commission

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INTRODUCTION

Practice Directions are issued under Rule 3.2 of the Rules of Practice of the Ontario Civilian Police Commission (“Rules”). It applies to disciplinary appeals under section 87 of the *Police Services Act R.S.O. 1990, c. P15*, as amended (“Act”).

TRANSCRIPTS

A) PENALTY

A public complainant must have permission or “leave” to appeal a penalty decision. A public complainant seeking to appeal a penalty is not required to include any part of the disciplinary hearing transcript with their request for leave to appeal.

If the Commission grants leave to appeal, the complainant as Appellant, must then order a copy of the portions of the transcript of the disciplinary hearing on which he or she intends to rely for their appeal from the chief of the police force involved. Proof that the transcript has been ordered must be filed by the complainant with the Commission’s Registrar. A police officer appealing a penalty does not require leave to appeal. A police officer initiating such an appeal must order a copy of the portions of the transcript on which he or she intends to rely before filing their Notice of Appeal.

Proof that the transcript has been ordered must be filed with the Registrar along with proof of service on the other parties of both the Notice of Appeal and a copy of the decision being appealed.

When the transcript is received, the Appellant shall immediately advise the other parties and any statutory intervener which has given notice of a desire to be heard, and serve each of them with a copy.

As well, the Appellant must file three copies of the transcript with the Registrar in all penalty appeals except where the sanction being appealed is dismissal, in which case four copies of the transcript must be filed.

Rules 27, 28.1 to 28.4, 29.3, and Form 4

B) CONVICTION/ACQUITTAL

Permission or “leave” is not required for a public complainant to appeal an officer’s acquittal. On such an appeal, the public complainant is the Appellant.

Permission or “leave” is not required for a police officer to appeal his or her conviction. On such an appeal, the police officer is the Appellant.

As the Appellant, a public complainant appealing an acquittal decision must order a copy of the portions of the transcript upon which they intend to rely for the appeal from the chief of the police service involved.

As the Appellant, a police officer appealing a conviction must order a copy of the portions of the transcript on which they intend to rely for the appeal.

In both cases, the transcripts must be ordered before the Appellant files their Notice of Appeal.

Proof that the transcript has been ordered must be filed by the Appellant with the Registrar along with proof of service of the Notice of Appeal and a copy of the decision being appealed.

When the transcript has been received the Appellant shall immediately advise the other parties and any statutory intervener who has given notice of intent to be heard on the appeal, and provide each of them with a copy.

As well, three copies of the transcript must be filed by the Appellant with the Registrar, unless a penalty of dismissal is also being appealed, in which case four copies must be filed.

Rules 9.1, 28.1 to 28.5, 29.3 and Form 4



FACTUM

Those appearing on an appeal must prepare, serve and file a factum. A factum is a brief written argument setting out the facts and law which are relied on for the appeal.

The factum should be concise and focused on the issues to be argued. No factum may exceed 30 pages in length without advance permission from the Commission.

The style of cause (i.e. name of officer, public complainant, and police service) and the contact information of the filing party must be clearly noted on the cover of the factum.

BRIEF OF AUTHORITIES

Those appearing on an appeal must serve and file a brief containing neatly bound legible copies of the legal authorities relied on for the appeal.

The relevant pages and passages for each case must be clearly marked. There must be a tab for each case, and an index which indicates the tab where each case is reproduced. The page numbers of each case must be clearly shown. Cases should be copied on both sides of the page.

Where reference is to be made to a decision included in the Book of Decisions, only the specific extract of that decision to be relied on during oral argument should be included in the brief of authorities.

The parties and any statutory interveners should consult in advance to avoid duplication of cases included in their respective briefs of authorities.

The style of cause and contact information of the filing party must be clearly noted on the cover of the brief of authorities.

Each party and statutory intervener must file with the Registrar three copies of their factum and brief of authorities, and any other documents relied on

for the appeal, together with an affidavit of service. In cases where a penalty of dismissal is being appealed four copies must be filed.

Rules 9, 30.1 and 30.3

TIME FOR ORAL ARGUMENT

Generally the Appellant will have up to 1½ hours for oral argument, and all other parties will have up to 1 hour each for response. The Appellant will then have up to ½ hour for any reply.

If a party wishes additional time for oral argument a written request must be made to the Registrar when the party files their factum. This request must set out the reasons for the request and how much additional time is required.

Prior to scheduling an appeal hearing, the Commission Panel adjudicating the hearing will review and decide on any request for increased time for oral argument.

The parties and statutory interveners will be advised as to the assignment of time for oral argument when the hearing date is confirmed. The Commission expects that its time assignments for oral argument will be adhered to.

HEARING OFFICER'S DECISION

When reference is made during oral argument to the decision being appealed it must be to the version of the decision served and filed as required by Rules 28.1 to 28.3.

SETTING THE DATE FOR ARGUMENT

Once all those appearing on an appeal have filed their materials the Registrar will arrange a date for the hearing of oral argument at the

Commission's office located at 250 Dundas Street West, 6th Floor, Suite 605, Toronto, Ontario.

A party who seeks a change of a hearing date must send a written request to the Registrar, copying the other parties and any statutory interveners, at least 10 business days prior to the hearing date. This request should set out the reason for the proposed change and identify an alternative date.

Rule 6.1

MOTIONS

A party may bring a motion to the Commission for relief related to the appeal, including permission to introduce new or additional evidence.

Motions related to appeals must be brought long before the date set by the Registrar for oral argument of the appeal.

The Registrar must be contacted in writing to determine an appropriate date to hear any motion.

The Commission's Rules of Practice require that the party bringing a motion must serve his or her materials for the motion (the notice of motion, evidence relied on, a factum and brief of authorities) on the other parties and any statutory intervener, and file 3 copies with the Registrar, at least 14 days before the Commission deals with the motion.

The Rules require that a party responding to a motion must serve and file 3 copies of his or her responding materials at least 7 days before the Commission deals with the motion.

Section 87(5) of the Act and Rule 10

PRE-HEARING CONFERENCE

The Commission will convene a pre-hearing conference in all complex disciplinary appeals. The Registrar shall advise parties and any statutory intervener when a pre-hearing conference is required and provide the necessary direction.

At a pre-hearing conference procedural matters related to the appeal will be considered including, the completeness of the record, whether all parties and interveners have been served with all necessary documents, the identification of the issues to be dealt with, time allocations for oral argument, and any other issues which may assist in the just and expeditious disposition of the appeal.

Rules 3, 12 and 13

COMMUNICATIONS

Unless directed otherwise, all communications with the Commission concerning an appeal proceeding must be made through the Registrar and copied to the other parties.

Rule 6.1