

SKILLED TRADES BC APPEAL BOARD

STAYS PENDING APPEAL

Please Note: *This information sheet is not intended as a substitute for the Skilled Trades BC Act or the Board's Rules of Practice and Procedure and is not legal advice. If you have legal questions, you should consult with a lawyer.*

Filing a notice of appeal to the Board does not automatically 'stay' or suspend the effect of the decision being appealed. However, the Board has the authority to order a temporary stay of the decision under appeal.

Any party may apply to the Board for a stay. Usually, the party requesting a stay is the appellant.

The Board does not grant applications for a stay automatically or routinely, unless all parties consent. Unless all parties consent, the party requesting the stay must show why it should be ordered. An application for a stay will normally be conducted as a preliminary written hearing.

To apply for a stay, you must deliver a written application to the Board explaining:

- the reason(s) why a temporary suspension of the decision being appealed is required;
- whether the appeal raises a serious issue to be decided by the Board;
- whether the appellant will suffer irreparable harm if the stay is not granted;
- whether the "balance of convenience" favours granting a stay; and
- whether other parties agree to the stay (if that is known).

The application should include sufficient information (with evidence to support your claims) to establish that there is a good reason for the request and a serious issue to be decided in the appeal. In addressing the issue of irreparable harm, the applicant must explain what harm he or she would suffer if the stay was refused and why this harm is "irreparable" (i.e. it could not be remedied if the applicant ultimately wins the appeal).

In addressing the "balance of convenience", the applicant must show that they will suffer greater harm from the refusal to grant the stay than the harm suffered by the other parties if the stay is granted.

Before ordering a stay, the Board will give the other parties an opportunity to provide submissions on the stay application.

The Board will notify the participants, in writing, of its decision regarding the application for a stay as soon as practicable.