



APPEAL OF INSPECTOR ORDERS/SEALS

INFORMATION BULLETIN NO. 1

APPEAL OF INSPECTOR ORDERS/SEALS

GENERAL

This Information Bulletin describes what happens when a person files an appeal of Inspector Orders/Seals under subsection 22.(1) of the *Technical Standards and Safety Act, 2000* (the "Act").

The Director appointed under the *Act* (the "Director") is responsible for processing and determining appeals. Appeals are determined through a hearing before the Director. Upon receiving an appeal, the Director will hold a hearing as soon as is reasonably possible but the appeal does not affect the operation of the Orders/Seals appealed from pending disposition of the appeal.

The procedure for appealing the requirement to pay fees is found in Information Bulletin No.: 2 - Appeal of the Requirement to Pay Fees.

HOW DO I APPEAL?

Appeals must be in writing, made on Form A-1 – APPEAL OF INSPECTOR ORDERS/SEALS. **Please note that your appeal must be filed with the Director within 90 days of the inspector having issued Orders or affixed Seals. Appeals may only be filed by hand delivery, registered mail or courier.**

Please ensure that the appeal Form A-1 – APPEAL OF INSPECTOR ORDERS/SEALS is complete. **Attach the Order(s) (Inspection Report) which you are appealing.** Incomplete forms or missing information may delay the processing of your appeal.

Normally an appeal involves two parties: the Appellant and the Inspector whose order/seal is being appealed. If another person is affected by the order/seal, that person may also be a party.

FILING THE APPEAL

To initiate your appeal, you must file a completed Form A-1 – APPEAL OF INSPECTOR ORDERS/SEALS with the Director through the Hearings Coordinator at:

Hearings Coordinator
Technical Standards and Safety Authority
345 Carlingview Drive
Toronto, ON
M9W 6N9
Phone: (416) 734-3548



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The appeal may be filed by **hand delivery, registered mail or courier.**

WHAT HAPPENS AFTER I FILE THE APPEAL?

Once your appeal form is filed with the Hearings Coordinator, the Hearings Coordinator will send you a letter confirming receipt of the appeal.

THE PROCESS

The Dispute Resolution Stage

The letter you receive from the Hearings Coordinator confirming receipt of your appeal will also have the contact information for an assigned Technical Standards and Safety Authority (TSSA) representative. This representative will contact you to informally discuss your file. The purpose of informally discussing the appeal is to try to resolve the appeal and avoid the need for a hearing.

The Hearing Stage

If the matter is not resolved through the dispute resolution stage, the Hearings Coordinator will send you and the TSSA representative the Notice of Hearing. If the facts are largely undisputed and credibility does not appear to be an issue, the Director may propose conducting a written hearing for appeal. Written hearings are often a fair and efficient method of conducting an order/seal appeal. If you receive a Notice for Written Hearing, you will be given the opportunity to satisfy the Director that there is good reason not to hold a written hearing, in which case the Director may hold an electronic or oral hearing. The general procedures for a written hearing under the TSSA Rules of Practice are as follows:

- 6.5 (1) TSSA shall serve the appellant and file with the Tribunal a Statement of Position after receiving notice of the written hearing.
- (2) If the appellant or other parties wish to respond, they shall do so by serving the TSSA and filing with the Tribunal a response after receiving TSSA's Statement of Position.
- (3) A response shall:
 - a. be accompanied by the evidence that explains or supports the response;
 - b. set out the party's submissions; and
 - c. set out any remedy or decision requested.
- (4) TSSA may reply to a response by serving the appellant and filing with the Tribunal a reply after receiving a response from any other party.
- (5) The reply shall:



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- a. set out TSSA's position with respect to the response; and
- b. be accompanied by the reply evidence, if any, that explains or supports the reply.

You should consult the TSSA Rules of Practice for additional information and the different procedures.

If the matter proceeds as an oral or electronic hearing, the Hearings Coordinator will consult with the parties to schedule a date, time and location for the hearing. The Hearings Coordinator will then send the parties the Notice of Hearing confirming the date, time and location of the hearing. Parties are entitled to be represented by a lawyer or representative at the hearing.

The hearing is a legal proceeding to determine your rights and obligations under the *Act*. ***If you do not attend or respond (depending on the type of hearing), the hearing will proceed without you and your rights and obligations will be determined in your absence.***

Sometimes, it is impossible for a party to attend the hearing on the date it is scheduled. Except in extreme circumstances (for example a family emergency or illness), the Director expects the party seeking an adjournment to contact the other parties and request their consent to the adjournment. If all parties do not agree to the adjournment, you must make your request in writing addressed to the Director. A decision will be made by the Director. Where an adjournment is necessary, you must give the Director and the other parties as much advance notice of your request as possible. Otherwise, there may not be enough time to process the request before the hearing.

You must bring all documents you intend to rely upon to the hearing. The Director will only have the documents you filed with the appeal. Everything else, including legal decisions which you expect to use in support of your argument, must be produced at the hearing. You will need **four copies** of each document: two for the Director, one for the Inspector and one for yourself.

You must also arrange to have any witnesses you intend to call on to give oral testimony present at the hearing. If you are not sure that a witness will attend, you may request a summons from the Director ordering his/her attendance and ordering him or her to bring any documents which are relevant to the appeal. It is your responsibility to serve the summons before the hearing commences and to ensure that it is served correctly - it must be served in person and be accompanied by the required payment for attendance.

The Director will decide the case based only on evidence presented at the hearing. You cannot provide additional information after the hearing is completed, unless you are requested to do so by the Director. **You may not communicate privately with the Director about the case before, during or after the hearing.**



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DIRECTOR'S DECISION

After the appeal hearing, the Director may change, revoke or affirm an order. Where the Director's decision affirms the inspector's orders/seals, the affected party may appeal the decision to the Divisional Court.

ADDITIONAL INFORMATION

Copies of forms, information bulletins and TSSA's Rules of Practice are available on the TSSA website at www.tssa.org.