**ORDER 55**

**APPEALS TO GRAND COURT FROM GOVERNOR-IN-COUNCIL, REGISTRAR OF**

**LANDS, TRIBUNAL OR OTHER PERSON: GENERAL**

**Application (O.55, r.1)**

**1.** (1) Subject to paragraphs (2) and (3), this Order shall apply to every appeal which by or under any enactment lies to the Court from the Governor-in-Council, the Registrar of Lands, any tribunal or person.

(2) This Order shall not apply -

(a) to any appeal to which Order 73 applies;

(b) to any appeal under the Criminal Procedure Code;

(c) to any appeal under the Summary Jurisdiction Law;

(d) to an appeal by case stated.

(3) The following rules of this Order shall, in relation to an appeal to which this Order applies, have effect subject to any provision made in relation to that appeal by any other provision of these Rules or by or under any enactment.

(4) In this Order references to a tribunal shall be construed as references to any tribunal, board or authority constituted by or under any enactment other than any of the ordinary courts of law.

**Court to hear appeal (O.55, r.2)**

**2.** Except where it is otherwise provided by these Rules or by any enactment an appeal to which this order applies shall be heard and determined by a single Judge.

**Bringing of appeal (O.55, r.3)**

**3.** (1) An appeal to which this Order applies shall be by way of rehearing and must be brought by originating motion.

(2) Every notice of the motion by which such an appeal is brought must state the grounds of the appeal and, if the appeal is against part only of any order, determination, award or other decision, must state whether the appeal is against the whole or part of that order, determination, award or other decision and, if against a part only, must specify the part.

(3) The bringing of such an appeal shall not operate as a stay of proceedings on the order, determination, award or other decision against which the appeal is brought unless the Court by which the appeal is to be heard or the Governor-in-Council, the Registrar of Lands, tribunal, arbitrator or person by which or by whom the decision was given so orders.

**Service of notice of motion and entry of appeal (O.55, r.4)**

**4.** (1) The persons to be served with notice of the motion by which an appeal against an order, determination, award or other decision of the Governor-in-Council, the Registrar of Lands, any tribunal or person is brought, are the Secretary to Executive Council, the Registrar of Lands, the chairman of the tribunal or person, as the case may be, and every party to the proceedings in which the decision was given who is directly affected by the appeal.

(2) In the absence of any other statutory time limit, the notice must be served, and the appeal entered, within 28 days after the date of the order, determination, award or other decision against which the appeal is brought.

(3) The period specified in paragraph (2) shall be calculated from the date on which notice of the order, decision, determination or award was given to the appellant by the person or persons who made it or by a person authorised in that behalf to do so.

**Date of hearing of appeal (O.55, r.5)**

**5.** Unless the Court otherwise directs, an appeal to which this Order applies shall not be heard sooner than 21 days after service of notice of the motion by which the appeal is brought.

**Amendment of grounds of appeal, etc. (O.55, r.6)**

**6.** (1) The notice of the motion by which an appeal to which this Order applies is brought may be amended by the appellant, without leave, by supplementary notice filed and served not less than 7 days before the day appointed for the hearing of the appeal, on each of the persons on whom the notice to be amended was served.

(2) Except with the leave of the Court no grounds other than those stated in the notice of the motion by which the appeal is brought or any supplementary notice under paragraph (1) may be relied upon by the appellant at the hearing; but the Court may amend the grounds so stated or make any other order, on such terms as it thinks just, to ensure the determination of the merits of the real question in controversy between the parties.

(3) The foregoing provisions of this rule are without prejudice to the powers of the Court under Order 20.

**Powers of Court hearing appeal (O.55, r.7)**

**7.** (1) In addition to the power conferred by rule 6(2), the Court when hearing an appeal to which this Order applies shall have the powers conferred by the following provisions of this rule.

(2) The Court shall have power to receive further evidence on questions of fact, and the evidence may be given in such manner as the Court may direct either by oral examination in Court, by affidavit, by deposition taken before an examiner or in some other manner.

(3) The Court shall have power to draw any inferences of fact which might have been drawn in the proceedings out of which the appeal arose.

(4) It shall be the duty of the appellant to apply to the person presiding at the proceedings in which the decision appealed against was given for a signed copy of any note made by him of the proceedings and to furnish that copy for the use of the Court; and in default of production of such note, or, if such note is incomplete, in addition to such note, the Court may hear and determine the appeal on any other evidence or statement of what occurred in those proceedings as appears to the Court to be sufficient.

Except where the Court otherwise directs, an affidavit or note by a person present at the proceedings shall not be used in evidence under this paragraph unless it was previously submitted to the person presiding at the proceedings for his comments.

(5) The Court may give any judgment or decision or make any order which ought to have been given or made by the Governor-in-Council, the Registrar of Lands, tribunal or other person and make such further or other order as the case may require or may remit the matter with the opinion of the Court for rehearing and determination by it or him.

(6) The Court may, in special circumstances, order that such security shall be given for the costs of the appeal as may be just.

(7) The Court shall not be bound to allow the appeal on the ground merely of misdirection, or of the improper admission or rejection of evidence, unless in the opinion of the Court substantial wrong or miscarriage has been thereby occasioned.

**Right of Governor-in-Council to appear and be heard (O.55, r.8)**

**8.** Where an appeal to which this Order applies is against an order, determination or other decision of the Governor-in-Council, the Registrar of Lands or other person, he shall be entitled to appear and be heard in the proceedings on the appeal.