

COMMUNITY CARE AND ASSISTED LIVING APPEAL BOARD

STAYS PENDING APPEAL

Filing a notice of appeal to the Board does not automatically stay or suspend the effect of the decision being appealed.

In some circumstances, if the appellant requests it, the Board may make an order suspending the decision IF it is satisfied that suspending the decision below would not risk the health and safety of a person in care.

To apply for a stay order to temporarily suspend the decision being appealed, a party must deliver a written request to the Board that explains:

- the reason(s) temporary suspension of the decision being appealed is required,
- whether the appeal concerns a serious issue,
- whether irreparable harm will be incurred if the order is not granted,
- why granting the order would not risk the health or safety of any persons in care, and
- whether other parties agree to the order (if that is known).

Before making an order to suspend the decision, the Board will give the respondent an opportunity to be heard and to provide submissions to the Board, including the respondent's views on whether the health and safety of any person in care may be at risk if the decision is temporarily suspended.

Normally an application for a stay will be conducted in writing.

Orders to temporarily suspend the decision being appealed are not granted automatically or routinely, unless all parties consent.

Generally the appellant should include in the request sufficient information to establish that there is a good reason for the request, a serious issue to be decided in the appeal, that there will be irreparable harm suffered by the individual or the public if the decision is not suspended and that the order would not put the health and safety of any person in care at risk.

In addressing the issue of irreparable harm, the party seeking the stay must explain what harm would be suffered if the stay was refused and why this harm is "irreparable", meaning, it could not be remedied if the party ultimately wins the appeal.