



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Canada

The Refugee Appeal Division (RAD)

Filing An Appeal Information Session for Appellants

Central Region, March 2021



Making a RAD Appeal

- What is a RAD appeal?
- Who can make a RAD appeal?
- When can you appeal?
- How do you appeal?
- What happens after?





RAD Appeals



- The Refugee Appeal Division, or RAD, is part of the Immigration and Refugee Board of Canada
- The RAD is separate and independent from the Refugee Protection Division (RPD)
- You could appeal to RAD if you believe that the RPD made an error in rejecting your claim
- The RAD usually does not hold hearings, so your documents are important



Who can appeal to the RAD?

- RAD or Federal Court
 - Most refugee claimants who received a negative decision from the Refugee Protection Division are eligible
 - More information on who doesn't have the right to appeal to the RAD:
<https://irb-cisr.gc.ca/en/refugee-appeals/Pages/RefAppGuide.aspx#s2.04>
 - Representatives of the Minister

Timelines to begin an appeal are tight



What does the representative of the Minister do?

- Monitors RPD decisions and RAD appeals
- May appeal your positive RPD decision or participate in your appeal
- You will be notified if that happens, and have an opportunity to reply



Refugee Appellant's Kit

- Explains the appeal process
- Full kit and forms available electronically at:
<https://irb-cisr.gc.ca/en/refugee-appeals/Pages/RefAppGuide.aspx>
- Shorter paper version is mailed with a negative refugee protection decision (includes important instructions and notice of appeal form)



RAD PROCEDURE GUIDES

Appellant's Guide

Use if you are filing a refugee appeal

Respondent's Guide

Use if you are responding to a Minister's appeal

These guides provide general information. For more precise legal information, please see the *Immigration and Refugee Protection Act (IRPA)*, the *Immigration and Refugee Protection Regulations (IRPR)* and the *Refugee Appeal Division Rules (RAD Rules)*. You can find links to all of these documents on the IRB Web site at:

irb-cisr.gc.ca



Who can help with the RAD appeal?

- Legal counsel (lawyer or notary)
- Consultant who is a member of the Immigration Consultants of Canada Regulatory Council (ICCRC)
- Representative (without a fee)
- You may be eligible for Legal Aid.



You are not required to have counsel represent you.

If you have counsel, you are responsible for making sure that your counsel meets the deadlines.



How to appeal?

There are **2 steps**:

1. Notice of Appeal = start of appeal
2. Appellant's Record = argument and facts

The image shows a form titled "Notice of Appeal from a Refugee Protection Division Decision". The form includes a header with the Immigration and Refugee Board of Canada logo and name. Below the title, there are instructions for the appellant, including a deadline of 15 days from the date of the decision. The form contains several sections for providing information, including a table for "Appellant Information" with columns for Name, Date of Birth, Sex, and Address. The form also includes a section for "Appellant's Statement" and a section for "Appellant's Signature". The form is numbered "IRB 0001" and has the Canada logo at the bottom right.



When to Appeal

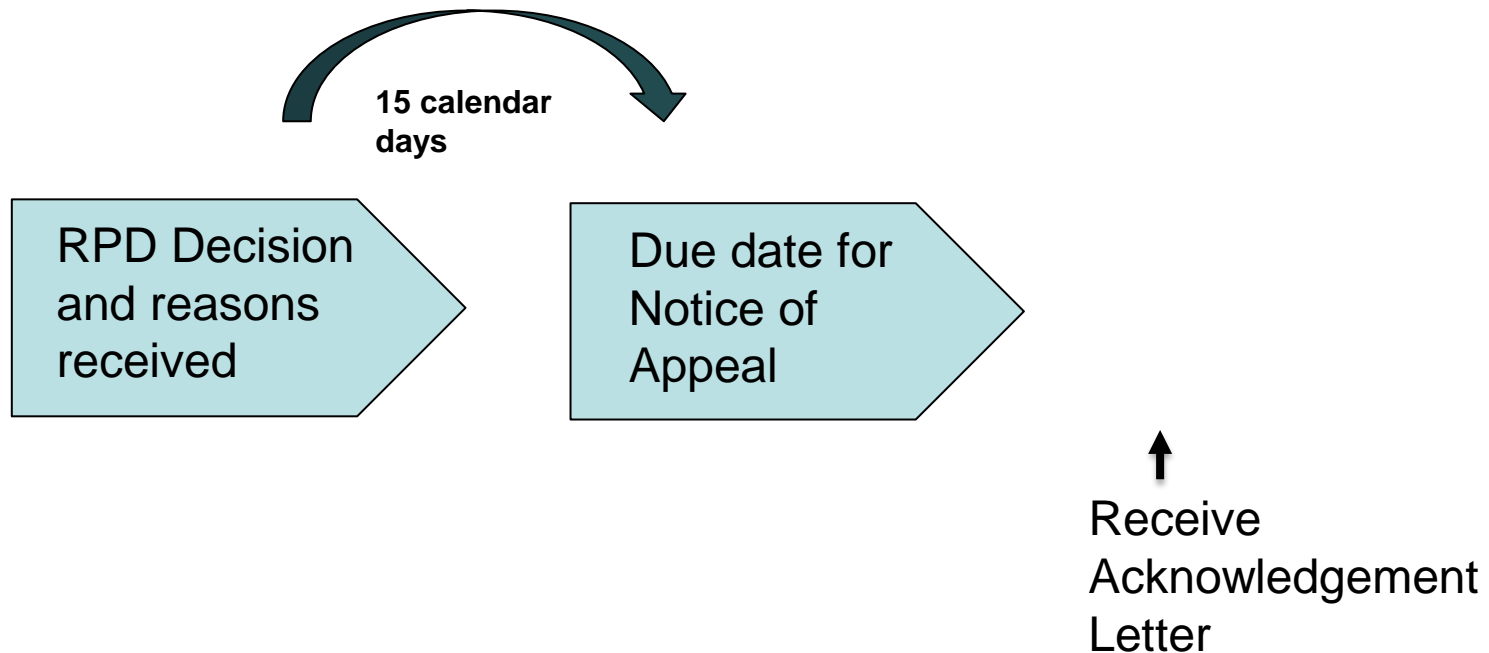


- **Start** appeal within **15 days** of receiving the written reasons from the RPD
- **Provide arguments and facts** within **45 days** of receiving the written reasons from the RPD

The calculation of "days" is by **calendar days**



Step 1: Notice of Appeal





15 Days to file Notice of Appeal

OCTOBER						
S	M	T	W	T	F	S
		*	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15**	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

RPD decision received by you on September 30

The Notice of Appeal must be submitted by October 15



Notice of Appeal

Front

Back

Immigration and Refugee Board of Canada / Commission de l'immigration et du statut de réfugié du Canada

For office use
Received on: _____

Notice of Appeal from a Refugee Protection Division Decision
Subsection 110(1) of the Immigration and Refugee Protection Act

TIME LIMIT: Provide the Refugee Appeal Division three copies of this notice of appeal no later than 15 days after you receive the written reasons for the Refugee Protection Division decision.

I am / We are appealing a decision of the Refugee Protection Division. _____
Date of the notice of decision (year/month/day) _____ Date Refugee Protection Division reasons received (year/month/day) _____

Appellant information
Use additional sheets of paper the same size as this form if needed.

Appellant - last name, first name	Appellant - date of birth (year/month/day)	Appellant - country of nationality/country of citizenship	Refugee Protection Division file number	Client ID number	Signature of appellant/ designated representative and date signed (year/month/day)	Language chosen for appeal	Representative designated by the Refugee Protection Division	Refugee Appeal Division file number (for office use)
						<input type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> None <input type="checkbox"/> Yes, Provide information on page 2	
						<input type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> None <input type="checkbox"/> Yes, Provide information on page 2	
						<input type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> None <input type="checkbox"/> Yes, Provide information on page 2	
						<input type="checkbox"/> English <input type="checkbox"/> French	<input type="checkbox"/> None <input type="checkbox"/> Yes, Provide information on page 2	

Disponible en français / Immigration and Refugee Board of Canada
http://www.irb-cir.gc.ca
Notice of Appeal from a Refugee Protection Division Decision / Page 1 of 2

Canada

Address of appellant

Number and street	Apartment	City	Province	Postal code
Home telephone	Work telephone	Home fax	Work fax	

Counsel contact information

Name (Mr./Ms)	Law firm or company			
Number and street	Apartment	City	Province	Postal code
Telephone number	Fax number	Electronic mail address	Membership number	

Lawyer / Paralegal / Notary: Select province or territory _____

Immigration Consultants of Canada Regulatory Council

Family member or other person helping with this appeal: (Please complete the Notice of representation without a fee or other consideration and provide it to the Refugee Appeal Division with these documents.)

Limitation on retainer: _____

Note: The Immigration and Refugee Protection Act makes it an offence for any person not authorized under the Act to knowingly, directly or indirectly, represent or advise a person for consideration—or offer to do so—in connection with a proceeding under this Act. (Consideration includes money, or any other form of compensation or reward.)

I have been retained to represent the appellant(s) named above for their appeal before the Refugee Appeal Division.

Signature of counsel _____ Date (year/month/day) _____

Designated representative information (if one was designated by the Refugee Protection Division)

Name (Mr./Ms)	Relationship (if applicable)	Organization or company (if applicable)		
Number and street	Apartment	City	Province	Postal code
Telephone number	Fax number	Electronic mail address		

Interpreter's declaration

I (print full name clearly) _____ hereby declare that I have accurately interpreted the entire content of this form to the appellant(s) from the English to the _____ language (state dialect if applicable).

I am proficient in both these languages (and dialect, if any) and was able to communicate fully with the appellant(s). The appellant(s) indicated that he/she/they fully understand(s) the entire content of this form as interpreted by me.

Signature of interpreter _____ Date (year/month/day) _____

Disponible en français / Immigration and Refugee Board of Canada
http://www.irb-cir.gc.ca
Notice of Appeal from a Refugee Protection Division Decision / Page 2 of 2



Designated Representative?



- The Designated Representative is a person who protects the interests of minors or other persons who are unable to appreciate the nature of the proceedings
- If you were the designated representative for your child at the RPD, you will probably continue that in that role



Notice of Appeal

Acknowledgement Letter

- Confirms the receipt of your appeal
- Shows your RAD Registry Office and contact information
- Shows the timeline for filing of your Appellant's Record
- Explains procedure

Immigration and Refugee Board
Refugee Appeal Division
Suite 400, 74 Victoria Street
Toronto, ON M5C 3C7
Tel: 416-954-1000 - Fax: 416-954-1511

Month Day Year

John Doe
Address
City, Province

RAD File: TBX-XXXXX
RPD File: TBX-XXXXX
UCI: XXXXXXXXX

Subject: Acknowledgement of receipt of your notice of appeal

The Refugee Appeal Division (RAD) has received your notice of appeal on October 23, 2020.

Refugee Appeal Division file number

Please include your RAD file number whenever you contact the RAD. All of your communications regarding your file must be made to this RAD registry office located at the address provided above.

Perfecting your appeal

Your appellant's record must be received by the RAD **within 45 days** after the day on which you received the written reasons for the Refugee Protection Division's (RPD) decision you are appealing. As the RPD written reasons are considered to be received 7 days after the day on which they were mailed to you, your appellant's record must be received by the **RAD on MONTH DAY YEAR**. **You must provide two copies of your appellant's record if submitting by paper, or one copy only if you send it electronically.** The RAD will provide the appellant's record to the Minister.

The RAD also removes (waives) the requirement in the rules for signatures on documents and RAD forms submitted in support of an appeal.

For more information, please refer to the [Practice Notice extending time limit for perfecting an appeal \(https://irb-cisr.gc.ca/en/legal-policy/procedures/Pages/practice-notice-extending-time-perfecting-appeal.aspx\)](https://irb-cisr.gc.ca/en/legal-policy/procedures/Pages/practice-notice-extending-time-perfecting-appeal.aspx).

If either your appellant's record OR an application for an extension of time to perfect the appeal is not provided to the RAD, your appeal may be dismissed. Please consult the [appellant's record](#) form and instructions on the website of the Immigration and Refugee Board of Canada (IRB).

Minister's intervention

The Minister may at any time, before a decision is made, intervene in your appeal. If you receive a notice of intervention or other documents from the Minister, you will have 15 days from the date you receive each document to provide a reply if you wish to do so. In that case, you must provide your reply to the RAD and to the Minister at the address provided in the notice of intervention.

Counsel contact information

You have the right to be represented by counsel, at your own expense. If you choose to retain counsel who receives a fee or other consideration, counsel must be a member in good standing of either a provincial law society (including lawyers and paralegals), the Chambre des notaires du



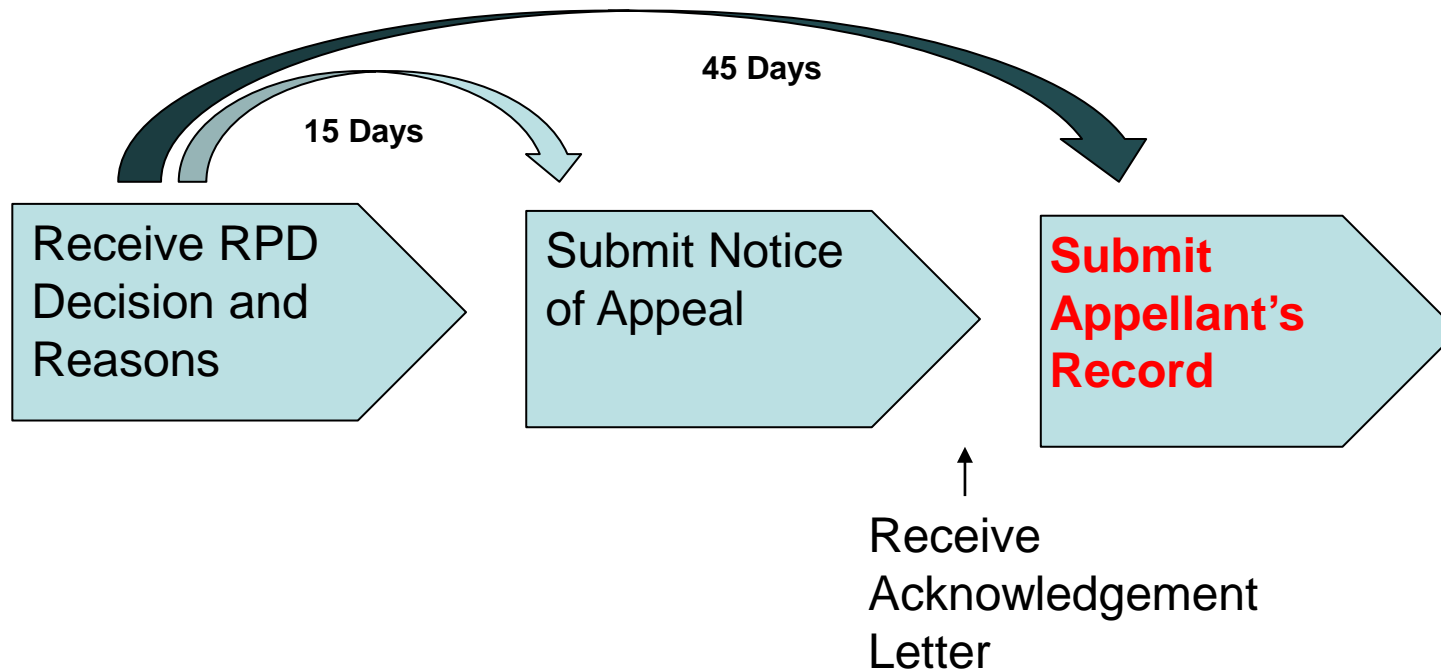
Step 2: Appellant's Record

**Appellant's Record =
argument + facts**

- The appellant's record states your case that the decision of the Refugee Protection Division contained errors



Process Flow (Appellant's Record)





45 Days to file Appellant's Record

October / November						
S	M	T	W	T	F	S
		*	1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	1
2	3	4	5	6	7	8
9	10	11	12	13	14**	


* RPD decision received by you on September 30

** The Appellant's Record must be submitted by November 14



Appellant's Record Form

- Use to organize your appeal


 Immigration and
Refugee Board of Canada
Refugee Appeal
Division

Commission de l'immigration
et du statut de réfugié du Canada
Section d'appel
des réfugiés

**APPELLANT'S RECORD PURSUANT TO RULE 3
OF THE REFUGEE APPEAL DIVISION RULES**

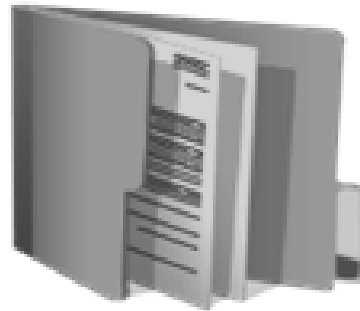
Date Stamp
(used exclusively by the Board)

Appellant(s) Name(s)	RAD File Number	RPD File Number	Unique Client Identifier

https://irb-cisr.gc.ca/en/forms/Documents/RadSar3005_e.pdf



What must be in your Appellant's Record



- A memorandum explaining your argument against the RPD decision
- A written statement about new evidence, oral hearing and language of interpretation.



What might be in your Appellant's Record ?



- Transcript (full or partial) of the RPD hearing
- Previously rejected evidence provided to RPD
- Allowable new evidence
- Request for oral hearing to deal with new evidence

Do not submit any document that was accepted as evidence at the RPD (BOC or documents from NDP)



2. Your Memorandum

- Provide a clear argument pointing out the mistakes made by the RPD
- Identify specific mistakes and show where to find them in the RPD written reasons, transcript or audio recording

Page(s) number(s)		Paragraph(s) number(s)		Line(s) number(s)
Number	Track Number	Start time (specify hours and minutes)	End time (specify hours and minutes)	Length of excerpt (specify hours and minutes)

- State the decision you want the RAD to make
- Maximum of 30 typewritten pages



Written Statement under s. 110(4)

Please provide a separate written statement indicating:

- If you are relying on any new evidence*
- If you are requesting a hearing
- The language of interpretation for the hearing

* List evidence you are presenting

Name of evidence

Author

Date (dd/mm/yy)



New Evidence

- Evidence that was unavailable when the RPD rejected your claim, or if you could not reasonably have been expected to provide it
- You have to explain:
 1. Why is this evidence new?
 2. How it relates to you?

Any document in another language must be provided together with an English or French translation and a declaration signed by the translator that the translation is accurate.



Oral Hearing



- No new evidence = no hearing
- If you have **new evidence** that has been accepted, and the RAD Member agrees that it is about your credibility and is central to your claim, you **may** have a hearing
- It is rare to have hearings at the RAD



Your responsibilities as an appellant

- Provide three copies of the Notice of Appeal to the RAD no later than 15 days after the day on which you received the written reasons for the RPD decision;
- Provide two copies of the Appellant's Record to the RAD no later than 45 days after the day on which you received the written reasons for the RPD decision;
- Make sure that all of the documents you provide are in the right format;
- Clearly explain the reasons why you are appealing; and
- Provide your documents on time

Only one copy is required when submitting electronically.

If you do not do all of these things, the RAD may dismiss your appeal without examining it.



What happens if I miss a time limit?

- You can file an Application for Extension of Time
- You must explain why you missed the time limits



Application for an Extension of Time to File or Perfect an Appeal
 Subsection 159.91(2) of the *Immigration and Refugee Protection Regulations*
 Rules 6 and 37 of the *Refugee Appeal Division Rules*

Select one of the following:

Application for an extension of time to **file and perfect** an appeal:

➤ Refugee Protection Division (RPD) decision: _____

Date of the notice of decision (yyyy/mm/dd) Date RPD reasons received (yyyy/mm/dd)

Important: Attach three copies of the Notice of Appeal and two copies of the Appellant's Record. Provide any evidence in support of this application in an original affidavit or statutory declaration.

Application for an extension of time to **perfect** an appeal:

➤ Refugee Appeal Division (RAD) file no.: _____

Important: Attach two copies of the Appellant's Record. Provide any evidence in support of this application in an original affidavit or statutory declaration.

Appellant	RPD file no.	Signature of appellant/designated representative	Language chosen for appeal	Representative designated by RPD	RAD file no. (for office use)
LAST NAME, first name, middle name(s)	Unique client identifier	Date signed (yyyy/mm/dd)	<input type="checkbox"/> English	<input type="checkbox"/> None	
Date of birth			<input type="checkbox"/> French	<input type="checkbox"/> Yes. Provide information on page 3.	
Country of nationality/Country of citizenship					



Submission of Documents

- Mail or Courier
- Fax
- E-Post
- E-mail

Where to file your appeal documents?

You must provide your documents to the RAD Registry office that is located in the same region as the Refugee Protection Division Registry office that provided the notice of decision to you

Visit our website for more information irb-cisr.gc.ca



The RAD decision

After considering the appeal, the RAD may:

- **Dismiss** your appeal and confirm the RPD decision:
- **Allow** your appeal and either substitute a decision granting your request for refugee status, or send your refugee claim back to the RPD for a new decision



What if you lose your appeal, or could not appeal to RAD?

- You can ask permission from the Federal Court (FC) to review your RPD decision. This process is called “judicial review”
- There are strict timelines to follow



IRB resources

www.irb-cisr.gc.ca

[Forms](#)

[Procedures &
practice
notices](#)



[Act, Rules,
Regulations](#)

[Decisions](#)

- Check regularly the IRB website for news and updates



RAD Contacts for Central Region

Telephone: 416-954-1000

Toll-free: 1-866-790-0581

Fax: 416-954-1511

E-mail: IRB.RAD-C-SAR.CISR@irb-cisr.gc.ca



Questions

