

**72. Discontinuing an appeal**

- (1) The appellant may discontinue an appeal by lodging and serving a Form 26 (Discontinuance notice).
- (2) If it appears to the court that the appellant is a person under disability (as defined in the RSC Order 70 rule 1), the Form 26 does not have effect unless it is approved by a judge.
- (3) An application for the approval of a judge must be lodged with an affidavit and, unless a judge orders otherwise, an opinion by an independent lawyer.
- (4) Unless a judge orders otherwise, an appellant who discontinues an appeal must pay the respondent's costs in respect of the appeal which must be taxed if they are not agreed.
- (5) In an appeal where the respondent also appeals against the primary court's decision, subrules (1) to (4) and Form 26 apply with any necessary changes.
- (6) The discontinuance of an appeal by the appellant does not affect any appeal by a respondent who also appeals against the primary court's decision.