

April 2017

## Calling All Small Claims: British Columbia's Civil Resolution Tribunal Looks to Take on Low-Value Small Claims Disputes

The Civil Resolution Tribunal (the "**CRT**") is a unique online forum to address disputes in British Columbia. The CRT first began hearing strata disputes in July 2016 and is now poised to implement its second phase by introducing small claims disputes up to \$5,000 beginning on June 1, 2017. Using the CRT will be mandatory for most claims up to \$5,000.

### What is the CRT?

The CRT is an online tribunal that allows parties to access legal services and tools online which are aimed to facilitate early dispute resolution through collaboration and agreement. Specifically, the CRT provides an escalating online dispute resolution process beginning with negotiation, through facilitation, and if warranted, adjudication.

The CRT has authority pursuant to the *Civil Resolution Tribunal Act* (the "**Act**")<sup>1</sup> to decide matters related to strata disputes and small claims matters. Small claims matters cover a broad range of legal issues, including personal injury claims, recovery of personal property, debt or damages, and employment matters. The CRT will

---

<sup>1</sup> *Civil Resolution Tribunal Act*, SBC 2012, c 25.

initially hear disputes with a monetary value of up to \$5,000 with the intention to increase this amount over time.

## CRT Dispute Resolution Process

The CRT dispute resolution process emphasizes collaboration and resolution by agreement. Parties are encouraged to resolve claims amongst themselves with the use of CRT resources through a progressive dispute resolution process.

### *Getting Started*

The CRT process begins with the Solution Explorer, an online tool that narrows the issues by asking the user questions about their matter. It then presents information and resources to assist with the problem. For example, the Solution Explorer may provide a demand letter template which can be sent to the opposing party. At the end of each session, the Solution Explorer will provide a summary and recommendations to move forward with the claim.

A CRT claim can be started by completing an application form. Once a claim is commenced, the opposing party is granted time to respond to the dispute notice and may add claims to the dispute through a counterclaim or parties to a dispute through a third party claim. If the respondent replies the claim will proceed to the negotiation stage. If the respondent does not reply then the applicant may be entitled to default judgment.

### *Negotiation*

The next stage is party-to-party negotiation. During this stage parties are meant to come to a consensual resolution and agreement with minimal CRT involvement. If parties agree to a resolution they can ask the tribunal to make the terms of the agreement into an order of the tribunal, which is binding and enforceable. If the parties are unable to reach a resolution they will move into the next stage of the CRT process.

### *Facilitation*

Similar to mediation, in this stage a facilitator considers the evidence of the parties and assists them to reach an agreement. The facilitator has the authority to review communications between the parties, speak privately with one party or the other, and direct parties to provide information or evidence. The facilitator can assist the parties in making a binding agreement which can become an enforceable consent resolution order of the tribunal. If no agreement is reached, then the facilitator will help the parties prepare for the tribunal decision process.

### *Tribunal Decision*

The final stage of the process is an adversarial process and most similar to the traditional court process. An independent tribunal adjudicator hears the arguments of both parties and determines all issues related to the matter. The decision is binding on the parties.

### **Keep in Mind**

Parties should be aware of certain rules which may affect how their claim is resolved by the CRT.

First, the CRT restricts legal representation during tribunal proceedings and encourages participants to represent themselves. That being said, there is no restriction on parties' ability to seek legal advice outside the real-time interactions with the CRT.

Second, parties should consider the complexity of their matter. This is because the majority of evidence is produced by written response which may make it difficult to determine issues such as credibility. Though the CRT allows for alternative evidentiary methods such as telephone and video-conferencing, these options may be inadequate for complex claims.

Finally, if a party is not satisfied with a decision of the CRT then that person can have their matter reheard before the Provincial Court. This is broader than an ordinary right of appeal. A dissatisfied party can file a notice of objection with the CRT and then file their claim or

counterclaim in Provincial Court and proceed to a trial *de novo* before a Provincial Court Judge. While security may be required and penalties may be awarded for unmeritorious rehearings, parties may find themselves litigating the same issues before both the CRT and the Provincial Court.

### Expanded Provincial Court Jurisdiction

In addition to the changes at the CRT, British Columbia's Provincial Court jurisdiction will simultaneously increase to \$35,000 for small claims cases beginning June 1, 2017.

by [Melanie Harmer](#) and [Tiffany Misri](#), Articled Student

For more information on this topic, please contact:

Vancouver     [Melanie Harmer](#)     604.691.6851     [melanie.harmer@mcmillan.ca](mailto:melanie.harmer@mcmillan.ca)

#### [a cautionary note](#)

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

© McMillan LLP 2017