
Civil Resolution Tribunal Decisions and Orders for Strata Property Claims

Publication / Date: The CHOA Journal-Winter 2017

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Since July 13, 2016, the Civil Resolution Tribunal (CRT) has been accepting applications for strata property dispute resolution. As at October 31, 2017, 746 applications for strata property dispute resolution have been accepted resulting in 140 resolutions by agreement and 110 binding decisions (21 by default). The CRT has refused to resolve 12 disputes and 120 disputes have been withdrawn or closed. There are 95 awaiting responses (where the dispute notice has been issued), 239 in facilitation, 26 in adjudication and 3 are suspended.

CRT Authority if a Party does not Participate

Default decisions and orders

If a respondent to a CRT dispute does not file a response with the CRT within 14 days of receiving the Dispute Notice (30 days if the respondent is outside of BC), the respondent is in default. If one respondent of a multi-respondent dispute is in default, the CRT will generally hear the dispute and may make a binding decision against the non-responding respondent without that party's input. If, however, every respondent is in default, the applicant can apply for a default judgment as set out in CRT rules 76-82.

In applying for a default decision, the applicant, after providing the respondent(s) with proof of notice and for waiting the 14 (or 30) day response period to expire, may file a completed Request for Default Decision and Order form with the CRT and pay the required fee (currently \$30 or \$25 online). When making a default decision and order, the CRT will do so without the participation of the non-participating respondent and will assume liability. That is, the CRT will assume the applicant's claim is correct and will not require evidence of the respondent's liability. For debt claims such as

outstanding strata fees, special levies or bylaw fines, the CRT will award the amount claimed plus interest, tribunal fees paid and dispute-related expenses. For non-debt claims, such as exercising a work order under section 85 of the *Strata Property Act* (SPA) or remedying a bylaw infraction and section 133 of the SPA, the applicant must submit evidence to support the claim. In those circumstances, the CRT will determine the amount the applicant is entitled to, based on the evidence, and may also award interest, tribunal fees and dispute-related expenses.

A party to a default decision and order may request the CRT cancel the default decision or order by following the procedures set out in CRT rules 138 – 142 as discussed below.

Decisions relating to non-compliance

Under section 36 of the *Civil Resolution Tribunal Act* (CRTA), a case manager (facilitator) may, after giving notice to the non-compliant party, refer a dispute to the tribunal for resolution. Non-compliance includes failure to comply with the CRTA or regulations, CRT rules relating to facilitation, including failing to meet timelines established by the facilitator or failing to participate in facilitation, and failing to comply with a CRT order made during facilitation such as procedural order. In the case of non-compliance, the CRT may hear the dispute, make an order dismissing a claim or the dispute entirely, or refuse to resolve a claim of the non-compliant party or refuse to resolve the dispute. The key difference between dismissing a claim and refusing to resolve the claim is that a dismissed claim may not be brought back before the CRT and any further request for CRT resolution of a claim (or dispute) that was refused may only be made with leave of the CRT.

Under section 37 of the CRTA, if the CRT makes a final decision following a hearing or dismisses a claim of a non-compliant party, that party may request the CRT cancel the final decision or order as set out in CRT rules 138 – 142 as discussed below.

Cancellation Requests for Default or Non-Compliance

A party who was in default or non-compliance can request the CRT cancel the final decision or order made by submitting a completed Request for Cancellation of Final Decision or Dismissal Form and submitting it with evidence and the required fee (currently \$50). The request must include the reason not responding or non-compliance. If the request for cancellation is accepted for consideration by the CRT, a tribunal member will decide what steps are required instruct the party on how to notify the other parties or other people requiring notice.

In reviewing a request for cancellation, the CRT will consider

- whether the reason for default or non-compliance was due to an accident, illness or other cause beyond the control of the party and the evidence supporting their request
- whether the party was acting in good faith
- whether the party has a defense worth investigating, and
- if there is any delay in submitting the request for cancellation, the reason for that delay, along with evidence for the delay.

Generally, the tribunal will not cancel a final decision or order that was made when a party was in default or failed to comply with the CRTA, rules or regulations, if the reason for non-compliance or any delay was within the control of that party.

Appealing CRT Decisions for Strata Property Claims

A CRT decision may be appealed to the Supreme Court of BC within 28 days of receiving the decision but only on a question of law arising out of the decision. Unless all parties agree, the Court must grant leave to appeal the decision and if leave is granted, the Court may confirm, vary or set aside the CRT decision, or may refer the claim back to the CRT with directions on the question of law that was the subject of the appeal. As of the date of writing, the court has granted leave to appeal one CRT decision and that appeal has not yet been heard.

Enforcing CRT Orders

All CRT orders, including consent resolution orders, are enforceable as court orders. A party to a CRT order can by file a validated copy of the order with the court

- after any applicable appeal period has passed and leave to appeal has not been granted
- leave to appeal has been denied, or
- the appeal is heard and the Supreme Court confirms the decision of the CRT.

For strata property claims, CRT orders may be filed with Supreme Court of BC or, if the order is for financial compensation or the return of personal property valued within the monetary limit for claims under the *Small Claims Act*, (currently \$35,000) with the Provincial Court. Orders filed with the court have the same force and effect as if they were a judgement of the court with which they are filed.