
Civil Resolution Tribunal – How Does it Work and What Can it Do?

Publication / Date: The CHOA Journal-Spring 2018

Written by: : J. Garth Cambrey / Civil Resolution Tribunal (CRT)

The *Strata Property Act* permits an owner, tenant, strata corporation or separate section of a strata corporation to apply to the Civil Resolution Tribunal (CRT) for dispute resolution.

The *Civil Resolution Tribunal Act* (Act), along with rules created by the CRT formally set out its authority and processes. The CRT is an administrative tribunal that forms part of the British Columbia justice system. Its mandate, as set out under section 2 of the Act, is to provide dispute resolution services in a manner that:

- Is accessible, speedy, economical, informal and flexible,
- Applies the principles of law and fairness, and recognizes relationships between parties in a strata property dispute will likely continue after it tribunal process is concluded,
- Uses electronic communication tools to facilitate resolution of disputes, and
- Accommodates, as far as possible, the diversity of circumstances

The CRT is designed to be an on-line tribunal. Very simply, the CRT model for dispute resolution involves a two-step process after an application is accepted for dispute resolution. The parties are first encouraged to negotiate a resolution to their dispute or reach resolution through facilitated settlement discussions assisted by a Case Manager. If facilitated resolution is not possible, the parties can request a binding decision of the tribunal through its adjudicative process. The Case Manager's role then changes to assist the parties to prepare their arguments and evidence to be presented to a tribunal member for a binding decision.

The CRT has accepted over 900 strata property disputes since July 13, 2016. During this time, several misunderstandings have come to light regarding the CRT process and things it can or cannot do. The following list is intended help with understanding the CRT's ability to assist parties with a strata property claim.

- The CRT cannot provide legal advice. Parties must do their own research or rely on legal counsel for legal advice. If parties can't afford a lawyer, they may wish to review the Access ProBono website or ClickLaw Helpmap for assistance. The Condominium Homeowners Association or Vancouver Island Strata Owners Association may also be able to answer strata questions although they are unlikely to provide legal advice. Additionally, parties can obtain legal information by using the CRT's Solution Explorer.
- The Act requires that parties represent themselves except if the party is a child or a person with impaired mental capacity or the CRT, in the interests of justice and fairness, permits a party to have another person represent them. That person can be a lawyer. If a person or strata corporation is allowed to have legal representation, it does not mean that party will be successful in the dispute.
- Any party can have someone help them with their dispute, provided the helper will not be a witness or directly gain or lose based on the outcome of the dispute. There is no need to have the tribunal's permission to have a helper.

- A helper can prepare documents, assemble evidence and assist in other ways but cannot communicate to the CRT or receive communications from the CRT on a party's behalf. Also, a helper may be a lawyer.
- The CRT can't predict the outcome of the process or what a decision might be in specific circumstances. There is a database of decisions on the CRT website www.civlresolutionbc.ca that is free to access. The decisions are fully searchable and can provide assistance to parties by identifying outcomes in related circumstances.
 - The CRT can't guarantee timelines for completion of the facilitation or adjudication processes. Though the mandate of the CRT is to provide its services as quickly as possible there are factors such as non-compliance and complexity that are outside the tribunal's control. The CRT cannot guarantee that decisions will be issued by specific deadlines, such as an AGM meeting date, especially if the application is made within a month or two of the scheduled AGM.
 - The facilitation process doesn't stop because a party goes on vacation or a permitted representative is unavailable. The CRT's mandate is, in part, speedy dispute resolution and the CRT sets the process and timelines, in order to fulfill this mandate. The CRT is flexible with respect to accommodating parties within reason and will certainly consider exceptional circumstances that may apply.
 - Evidence isn't always needed during settlement discussions. Sometimes the Case Manager will request that parties exchange evidence during facilitation and sometimes parties will send evidence to each other to assist in settlement discussions. Evidence exchanged during settlement discussions is not necessarily confidential. Discussions, negotiations and other communications made for the purposes of attempting to settle disputes or claims are confidential, and are not generally provided to the tribunal member if a binding decision becomes necessary.
 - Under the Act, a Case Manager can provide a non-binding neutral evaluation on their own initiative or if requested by a party. Such an evaluation can be provided to one or all parties and is covered by the confidentiality and non-disclosure rules. The intent of providing a neutral non-binding evaluation is to assist the parties in settling the dispute and does not mean a Case Manager is biased or is suggesting a party will be unsuccessful. Parties should consider the evaluation and should not be offended by the frankness of the Case Manager.
 - If a party is abusive in the course of pursuing or defending a claim the Case Manager has authority to intervene. However, if a party expresses an opinion about the dispute that isn't contrary to the Act or rules, the CRT will not intervene.
 - Given the CRT is primarily an online tribunal, hearings are generally conducted by way of written submissions provided by email. Only in circumstances where, at a tribunal member's discretion, an oral hearing is necessary, will one be conducted. Such circumstances include where credibility of a party is an issue or in complex disputes. Even then, the tribunal member may determine a telephone hearing, rather than an in-person hearing, may be sufficient for part of a hearing, with the balance of the hearing being conducted by written submissions. The vast majority of hearings conducted to date have been by written submissions.
 - While the Act permits the CRT to order a party not to do something, the CRT will generally not order preliminary injunctive relief while the dispute goes through the tribunal process. In other words, The CRT will issue its decision after the parties have completed the facilitation process and provided their submissions. For example, the CRT will not order the strata to stop imposing fines during the dispute resolution process because an owner is disputing them or the bylaw on which the fines were based.

- The CRT can't enforce its orders. Parties must go to BC Supreme Court, or the BC Provincial Court in certain circumstances, to enforce CRT orders and only after the 28 day appeal period has elapsed.
- The CRT doesn't provide ongoing support after a decision is issued. Once a decision is issued by the CRT, the tribunal does not have the jurisdiction to change its decision, aside from correcting typographical errors or clarifying the decision. Further, parties cannot contact tribunal members directly, just as parties may not contact a judge following a court decision.

Current Statistics

As at January 31, 2018, the CRT has accepted 911 applications for strata property dispute resolution. This has resulted in 197 withdrawals or resolutions by agreement and 170 binding decisions, including 40 by default. The CRT has refused to resolve 20 disputes for non-compliance and dismissed 1. There are 273 disputes in facilitation and 79 Dispute Notices issued that are awaiting responses.