

- C. Methods of Resolution [§19.52]
 1. Consent Resolution [§19.53]
 2. Order if a Party Does not Participate in a Hearing [§19.54]
 3. Final Decision Following Hearing [§19.55]
 4. Recovery of Fees and Expenses [§19.56]

VI. After Decision Is Rendered [§19.57]

- A. Request for Cancellation on Default [§19.58]
- B. Notice of Objection (Small Claims) [§19.59]
- C. Enforcement of Civil Resolution Tribunal Decisions [§19.60]
- D. Judicial Review of Civil Resolution Tribunal Decisions [§19.61]
 1. Time Limit [§19.62]
 2. Standard of Review under Civil Resolution Tribunal Act [§19.63]
 3. Patently Unreasonable Standard of Review [§19.64]
 4. Forms [§19.65]

I. INTRODUCTION TO PRACTICE BEFORE THE CIVIL RESOLUTION TRIBUNAL [§19.1]

The Civil Resolution Tribunal (“CRT”) is created and governed by the *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25 (the “*CRT Act*”). It describes itself as “Canada’s first online tribunal” (www.civilresolutionbc.ca). As of April 1, 2019, the CRT has the authority to adjudicate “claims in respect of accidents” (*CRT Act*, ss. 2.1(f), 132). It has the exclusive jurisdiction to determine when an injury is a “minor injury” and to determine Part 7 benefits, and has “specialized expertise” over motor vehicle injury claims having a value less than \$50,000 (*CRT Act*, s. 133; Accident Claims Regulation, B.C. Reg. 233/2018, s. 7). For a more detailed discussion, see “Jurisdiction” in this chapter.

In addition to the *CRT Act*, as amended effective July 15, 2019 (S.B.C. 2018 c. 17, B.C. Reg. 150/2019), the following legislation, regulations, and rules are relevant to practice before the CRT:

- *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231;
- Accident Claims Regulation, B.C. Reg. 233/2018;

- Minor Injury Regulation, B.C. Reg. 234/2018; and
- Civil Resolution Tribunal Rules (“CRT Rules”), most recently amended effective 2020 (at www.civilresolutionbc.ca/wp-content/uploads/2020/04/CRT-Rules-in-force-May-1-2020.pdf).

Also, see the course materials from *Civil Resolution Tribunal and Personal Injury Practice 2019* (CLEBC, 2019).

Note: on March 2, 2021, the Chief Justice of the Supreme Court of British Columbia pronounced reasons for judgment in *Trial Lawyers Assn. of British Columbia v. British Columbia (Attorney General)*, 2021 BCSC 348, in which he declared ss. 16.1 and 131(1)(b) and (c) of the *CRT Act* to be unconstitutional on the basis that those provisions infringed of s. 96 of the *Constitution Act, 1867*. He granted an order declaring that s. 133(1)(b) and (c) are of no force or effect and that s. 16.1 should be read down insofar as it applies to accident claims, except for determination of accident benefits under s. 133(1)(a). As the decision was released after content for the most recent update of this Manual had been finalized, it has not been covered in detail. Readers are encouraged to review the decision for further information and to consider its application to the discussion in this chapter.

This chapter addresses practice before the CRT, specifically the adjudication by the CRT of motor vehicle “accident claims”. Note that “accident claim” in the *CRT Act* is the same as “motor vehicle injury” in the CRT Rules (CRT Rules, Glossary).

Section 17(1) of the *CRT Act* provides for two phases in the CRT process: the case management phase, and the tribunal hearing phase. In the case management phase, the goal is resolution by agreement, facilitated by a case manager, failing which preparations are made for the tribunal hearing if necessary (*CRT Act*, s. 17(2)). In the tribunal hearing phase, the tribunal hears the dispute and gives a final decision (*CRT Act*, s. 17(3)).

Section 18 of the *CRT Act* provides the “proceeding is to be conducted with as little formality and technicality and with as much speed as permitted by the requirements of this Act, the rules and a proper consideration of the issues in the dispute”.

A party to an accident claim is permitted to have legal representation (*CRT Act*, s. 20.1; CRT Rule 1.13(7)(a)). CRT Rules 1.13(7)(b) and (c) provide that a party to an accident claim may be represented by an

authorized employee of an insurer or by any other representative the CRT considers appropriate.

II. JURISDICTION [§19.2]

A. GENERAL JURISDICTION OF CIVIL RESOLUTION TRIBUNAL [§19.3]

Effective April 1, 2019, Division 7 of Part 10 of the *CRT Act* sets out the CRT's jurisdiction over claims arising out of accidents that occur on or after April 1, 2019.

Note: As noted in the introduction, the following discussions in this chapter must now be read and considered in light of the court's recently pronounced judgment in *Trial Lawyers Assn. of British Columbia v. British Columbia (Attorney General)*, 2021 BCSC 348, which declared ss. 16.1 and 131(1)(b) and (c) of the *CRT Act* to be unconstitutional.

Sections 133(1)(a) to (c) of the *CRT Act* provide that the CRT has jurisdiction over accident claims concerning:

- (a) the determination of entitlement to benefits paid or payable under the *Insurance (Vehicle) Act*;
- (b) determination of whether an injury is a minor injury; and
- (c) liability and damages if under the tribunal limit of \$50,000.

(Note: Such claims are typically made in negligence against other parties involved in the accident, not against an insurer standing behind one or both parties, based on, for example, breach of contract or statutory obligations to investigate. Such claims against an insurer do not appear to fall squarely within the CRT's jurisdiction over accident claims (tort claims) but may fall within the CRT's jurisdiction over small claims, if the claim falls within s. 118(1)(a) through (d) (*Goertzen v. Kuemper-Sotvedt*, 2021 BCCRT 11 at para. 10; *Hernandez v. Berhe*, 2020 BCCRT 1193 at para. 9; *Christianson v. Insurance Corp. of British Columbia*, 2020 BCCRT 1251 at para. 9).)

Under s. 133(2)(a) of the *CRT Act*, the CRT is deemed to have "exclusive jurisdiction" (*CRT Act*, ss. 1 and 115) to decide claims under s. 133(1)(a) and (b) regarding:

- (a) benefits paid or payable; and
- (b) minor injury determinations.

Under s. 133(2)(b) of the *CRT Act*, the CRT is deemed to have “specialized expertise” (*CRT Act*, ss. 1 and 116) respecting claims under s. 133(1)(c) regarding liability and damages under the limit of \$50,000.

B. MATTERS OVER WHICH CIVIL RESOLUTION TRIBUNAL DOES NOT HAVE JURISDICTION [§ 19.4]

The CRT does not have jurisdiction in relation to an accident claim regarding an accident that occurred before April 1, 2019 (*CRT Act*, s. 134(2)(c)), except that, if the CRT had jurisdiction in relation to the *Small Claims Act* in respect of a claim involving an accident that occurred before April 1, 2019, that claim is to continue as a CRT small claim (*CRT Act*, s. 136(1)).

The CRT expressly does not have jurisdiction in regard to claims that may be dealt with under the following *Insurance (Vehicle) Act* provisions (*CRT Act*, s. 134(1)):

- (1) section 18(2) [*financial responsibility in other provinces*];
- (2) section 42.1 [*offence*];
- (3) section 68 [*relief from forfeiture*];
- (4) section 77(2), (8) and (9) [*rights of insurer*];
- (5) section 78 [*payment of insurance money into court*];
- (6) section 79 [*defence if more than one contract*].

Further, under s. 134(2), the CRT does not have jurisdiction in relation to liability or damages claims under the *Family Compensation Act* in respect of a death, or claims to which the *Arbitration Act* applies. Notably, the *Arbitration Act* applies to: uninsured or hit and run claims outside B.C. (*Insurance (Vehicle) Regulation*, s. 148); underinsured motorist protection (“UMP”) claims (*Insurance (Vehicle) Regulation*, s. 148.1); disputes about own vehicle loss or damage (*Insurance (Vehicle) Regulation*, ss. 176(2) and 177); and disputes as to whether a medical or rehabilitation expense is reasonable (*Insurance (Vehicle) Regulation*, ss. 88 and 89).