

Claim For Proceedings Previously Initiated Before Civil Resolution Tribunal (CRT) Small Claims Court Guide #3

It is important that you have read Small Claims Court guide [#1, What is Small Claims Court?](#), prior to reading this guide.

If the claim was previously started at the Civil Resolution Tribunal (CRT), you can file a claim in small claims court if:

- the CRT has made a final decision in the claim and a party has filed a notice of objection, or
- the CRT has refused to resolve the claim, or
- the court orders that the Civil Resolution Tribunal not adjudicate the claim.

To file in small claims court, you must:

- First, let the court know about your dispute.
- Second, let the parties (the people or entities named in the claim) know about it.

The notice of Civil Resolution Tribunal claim form is the document you will use to do both.

The notice of Civil Resolution Tribunal claim form is designed for people who are not lawyers. You may find all the help you need on the [information](#) sheet at the front of the form. If you would like more information, this guide is for you. It will answer some often-asked questions and describe, step by step, how to fill out the notice of civil resolution tribunal claim and what to do with it.

For more information about the small claims process, see the other publications in this series, which are listed at the end of this guide. For answers to particular problems or questions, read the small claims court rules on the BC Laws website at www.bclaws.ca or seek legal advice.

Note: From time to time, the Ministry of Attorney General and the Provincial Court run pilot projects to explore ways to improve the small claims court. If the registry where your case is filed is running a pilot project, it might not follow the process in this guide. You can find more information about the pilots underway on the Government of BC website under Small Claims Court.

1. What is the notice of Civil Resolution Tribunal claim form?

The notice of civil resolution tribunal claim form is the key to the whole lawsuit. This document tells:

- Who you are;
- Who the parties in your dispute are;
- Why you are bringing the claim to small claims court;
- Where and When the initiating claim happened; and
- What and How Much is being claimed.

2. Where do I get a notice of Civil Resolution Tribunal claim form?

Small claims forms are available on the Government of BC website (www2.gov.bc.ca) under [Small Claims Forms](#). You could also print the form and complete it manually. If you do not have access to the internet at home, you can go to your local library or your local law library and download the forms there. You can also get one from any [Provincial small claims court registry](#) or [Service BC Office](#). If you can't go there yourself, write and ask them to send you one. Contact information for small claims registries and Service BC offices can be found on their websites. The notice of Civil Resolution Tribunal claim is a special form with several copies attached and they are not all the same. If you use the form provided by the court, you will be sure to have the copies you need. If you are accessing the form from the website, please ensure you complete and

print all pages.

3. How do I fill out the notice of Civil Resolution Tribunal claim?

Let's look at an actual notice of Civil Resolution Tribunal claim and go through it step-by-step.

Filed By: Enter the name(s) of the person who is filing the notice.

Who:

Claimant - Enter the name, mailing address and telephone number of the person(s) or business(es) that started the initial claim in the CRT.

Defendant – Enter the name, address and telephone number of the person(s) or business(es) that the initial claim in the CRT is against.

Third Party - Enter the name, address, and telephone number of the person(s) or business(es) the responding party in the CRT added to the CRT dispute.

Your mailing address

is important because this is where the court will send the reply to your claim (if applicable) and any other notices or other documents in connection with your case.

If your address changes at any time, be sure to notify the court and all other parties to the lawsuit.

Otherwise, they will keep sending mail to you at your old address and you won't know what is happening in your case. To do this, you may use the [Notice of Change of Address form](#).

If you are under 19 years of age, you must start the claim through an adult who lives in the province and is willing to act as your litigation guardian. This person must file at the registry a signed consent to act as litigation guardian and certificate of fitness.

If you cannot find an adult willing to assist in this case, you can contact the child and youth services section of the public guardian and trustee. You may contact their office by phone at 604 660-4444 or 1-800-663-7867 or by email at: clientservice@trustee.bc.ca.

It is important to know that as a minor, if your claim is for personal injury, the adult assisting you must use a lawyer if your claim goes to trial. You may wish to visit the Law Centre website, [Small Claims factsheet #3](#) for further information about lawsuits involving minors.

Why: This is where you will indicate why you are bringing the CRT claim to small claims court. Check the box that applies to your situation.

Deposit: Check this box if you are asking for a deposit. You can ask for a deposit if a notice of objection has been filed. The Provincial Court may order that the person make a deposit as a condition of making or defending the claim. The filing party must complete Form 35.

You may file your notice with an incomplete or incorrect home address and amend your documents at a later time if you determine the correct address.

When filing your notice, it is important to keep in mind Small Claims Rule 1.1 (5) which governs where to file a notice of Civil Resolution Tribunal claim:

Filing a notice of Civil Resolution Tribunal claim

1.1 (5) A person must file a notice of civil resolution tribunal claim at the Small Claims Registry nearest to where

- (a) the defendant lives or carries on business, or
- (b) the transaction or event that resulted in the claim took place.

If the defendant or third party is a company incorporated in British Columbia, you must provide a company search which will show the correct name and address of the registered office. Usually you can tell if you are dealing with an incorporated company because its name will end in Limited (Ltd.), Corporation (Corp.), or Incorporated (Inc.).

The CRT may have provided you with a company search. If not, you must obtain a company search. For information about obtaining a company search, please visit the Government of BC website (www2.gov.bc.ca) and search for “Requesting Searches & Certificates”. There is a fee for a company search, which must be enclosed with the request. Phone 1 877 526-1526 (within Canada and USA) or 250 387-7848 for details.

A company search of a B.C. corporation can also be done in person at your ServiceBC office, or through a title service listed in the Yellow Pages of your phone directory. You must file a copy of the company search with your notice of Civil Resolution Tribunal claim. The cost of the search can be added to your claim by the registry. If the defendant or third party is a society, you must file a printout of a search showing the delivery address and mailing address of the society’s registered office on file with the Registrar of Companies. The search is done through the Corporate Registry, and you can get the telephone number and address from the section above which deals with suing a company incorporated in British Columbia.

If it was an auto accident that led to your claim:

If you are suing for damages from an automobile accident, you must also serve a copy of the notice of civil resolution tribunal claim on ICBC. The easiest way to do this is by registered mail. The address is:

ICBC Legal Department, #800 - 808 Nelson St., Vancouver, B.C. V6Z 2L5

You must prove to the court that you’ve served ICBC. Complete the certificate of service that is printed on one of your copies of the notice of civil resolution tribunal claim and take or mail it to the registry with the proof of service. They won’t set a date for settlement conference or do anything else on your file until they have that proof of service. Claims for liability (who was at fault for an accident) go directly to trial without a settlement conference.

Claims for Personal Injury:

If you are claiming damages for injury to yourself, your certificate of compliance must state that you are ready to discuss settlement of your entire claim and must have attached to it all medical and other reports and records you intend to rely on to prove your claim for expenses and losses. This certificate of compliance must be filed within six months after you served the notice of Civil Resolution Tribunal claim on all other parties and before a settlement conference or trial conference is held. Then, within 14 days of filing the certificate of compliance, you must serve a copy of the certificate and copies of all attached documents on each of the other parties. If you’re not ready to discuss settlement within the six months, you may ask the registrar to extend the time limit.

Where:

You need to indicate where the initiating CRT claim happened so the court registry staff can be sure that you are filing the claim at the right court registry. (We’ll explain what that means later.)

You don’t need the complete address here—the name of the city or town will do. If the case involves a breach of contract, tell where the contract was made or where the payments were to be made.

What and How Much:

Check the boxes that apply to your situation. The applicable documents from the CRT describe your claim, including the amount claimed and what is being disputed. There will always be at least one initiating claim and there may be responses or additional initiating notices depending on what happened in the CRT.

There will also be one of the following:

- A certificate provided by the tribunal after a notice of objection was filed.
- A notice provided by the tribunal if they refused to resolve the claim.
- An order issued by the Provincial small claims court exempting the claim from CRT adjudication.

All the documents from this section that apply to your case must be filed with the notice of Civil Resolution Tribunal claim. You will need a copy of each document to go with each copy of the form.

4. Is that all there is to the notice of Civil Resolution Tribunal claim?

You will see there is a space for "Expenses" and "Service Fees" just under the "Amount of your claim". The registry staff will fill these in for you.

The expenses are the amount you may have paid to make an application for exemption in Provincial small claims court. If you win your claim, the defendant may have to pay this back to you. The amount allowed for the service fee varies depending on how you serve the notice of civil resolution tribunal claim. There is another guide called Serving Documents that will give you more information about this. Again, if you win, you can usually get the service fee back from the defendant.

The registry staff will fill in the "Total Claimed".

5. What do I do with my notice of Civil Resolution Tribunal claim, after I've filed it out?

You can file the completed notice of Civil Resolution Tribunal claim form in person or by mail at the court registry nearest to either:

- where the defendant lives or carries on business; or
- where the event that led to the claim happened.

For example, if the event happened in Vancouver, but the defendant lives or carries on business in Surrey, you could file at Vancouver Provincial Court or Surrey Provincial Court.

Contact information for court registries can be found on the BC Government website (www2.gov.bc.ca) under [Court Locations](#). Certain registries currently accept filings by fax. You can find out more about fax filing on the BC government website under Fax Filing.

In addition, registries allow electronic filing of documents (a fee is charged) through [Court Services Online](#) (CSO) (<https://justice.gov.bc.ca/cso>). To eFile with CSO, a client must have a registered account with CSO and accept the user agreement. If you need any assistance with CSO, contact information is listed on the Contact Us link at the top right-hand corner of the home page. In addition, a client must have either a BCeID account with a registered credit card or BC Online account. More information on obtaining a [BCeID](#) or [BC Online](#) account can be found online. Remember, if the defendant or third party is a company or a society, you must also have a copy of the search along with your notice of Civil Resolution Tribunal claim.

6. Once I've filed the notice of Civil Resolution Tribunal claim, what do I do next?

The next step is to let the other party(ies) know about the claim. You do this by giving them the other party's copy of your notice of Civil Resolution Tribunal claim. Along with the notice of Civil Resolution Tribunal claim, you also must serve a copy of all the documents filed along with the notice of Civil Resolution Tribunal claim and blank reply form to any other party who does not have a response continued as a reply. The other party can use the form to reply to the claim. (This is called "serving" the notice of Civil Resolution Tribunal claim.) You can do this by registered mail. If you don't want to use the mail, you can serve the notice of Civil Resolution Tribunal claim by handing it to the other party personally. You can do this yourself or you can have somebody else do it for you. This might be a friend or it might be a professional process server, who would charge a fee.

If you have someone serve it for you, be sure that the person completes the certificate of service that is printed on the back of one of your copies of the notice of Civil Resolution Tribunal claim.

There are special rules for serving a notice of Civil Resolution Tribunal claim on companies, partnerships and other businesses and municipalities. There are also rules for serving someone who is a minor or who is out of the province or hard to find. (See *guide #5: Serving Documents* for information.)

7. How soon do I have to get my notice of Civil Resolution Tribunal claim to the other party?

You have 28 days to do this. After that time, your notice of Civil Resolution Tribunal claim will expire. If you wanted to continue after that time, you could apply for a renewal. Once you have served the other party, you

will need to complete the certificate of service and file it with the court registry to prove that the notice of civil resolution tribunal claim has been served.

8. What happens next?

After receiving your notice of Civil Resolution Tribunal claim, the other party may contact you directly and offer to pay the claim or try to settle the case in some way. You are free to make whatever arrangements you want at any time. Just because you have filed a notice of Civil Resolution Tribunal claim with the court, does not mean that you must continue with the lawsuit. If you are satisfied with what the defendant offers, you should withdraw your claim. If the other party offers payments, you could write an agreement as a consent order and file it at the registry. This can be enforced if payment stops. If the other party files a reply and agrees to pay all or part of the claim, but you don't agree with how it is to be paid, you can file a payment order and ask for a payment hearing so that the court can set a payment schedule.

If the other party files a reply disputing your claim (the registry will send you a copy) or the reply is continued from the CRT, your next step is to prepare and file a certificate of compliance (Form 37). The certificate of compliance is a document used to tell the court and each party that you have complied with the court rules and that your case is ready to continue. This certificate of compliance must be filed within six months after you served the notice of Civil Resolution Tribunal claim on all other parties and before a settlement conference or trial conference is held. Within 14 days of filing the certificate of compliance, you must serve a copy of the certificate and copies of all attached documents on each of the other parties. Once the certificate of compliance has been filed, the registry will set a date for a settlement conference or trial conference. To learn more about what to expect at the settlement conference or trial conference, read guide #6: Getting Ready for Court.

The defendant normally has 14 days from the date the notice of Civil Resolution Tribunal claim was served to file the reply, if they did not have a reply continued from the CRT. (A defendant who is served with the notice out of province has 30 days.)

If the defendant does nothing, you can ask the court to give you a default order, which is enforceable just like an order made by a judge following a trial.

How can I get more information?

This is one in a [series of guides](#) available. The titles in the series are:

1. What is Small Claims Court
2. Making a Claim for Proceedings initiated in Small Claims Court
3. Making a Claim for Proceedings initiated Before Civil Resolution Tribunal
4. Replying to a Claim
5. Serving Documents
6. Getting Ready for Court
7. Getting Results
8. Mediation for Claims between \$10,000 and \$35,000

The people behind the counter at any small claims registry are helpful. They cannot give legal advice and they cannot fill out your forms for you, but they will gladly answer many of your questions about small claims court procedures.

To contact a court registry, consult your telephone directory under “Court Services” in the provincial government blue pages in the phone book or search for Courthouse Locations on the BC Government website (www.gov.bc.ca)

This guide provides an overview of the significant provisions of the *Small Claims Act* and the Small Claims Rules. It is not intended as a substitute for the act or the rules, which should be examined for specific information. You can find links to the *Small Claims Act* and rules at www.gov.bc.ca/smallclaims.

This information is not intended to be legal advice. If you have any legal questions, you should see a lawyer.

You may also wish to consult Clicklaw at www.clicklaw.bc.ca for additional legal information.

Provided by the Ministry of Attorney General