



*CRT Use Only*

Date Provided: September 28, 2017

File: SC-2017-003104

Type: Small Claims

Civil Resolution Tribunal

Indexed as: \*Amended Decision and Order \*

**BETWEEN :**

- Please enter legal names of all applicants as they appear on the Dispute Notice
- If the applicant is a strata, ensure that you identify either the strata corporation or the strata section as appropriate

Eric Carlson

**APPLICANT[S]**

**AND :**

- Please enter legal names of all respondents as they appear on the Dispute Notice
- If the respondent is a strata, ensure that you identify either the strata corporation or the strata section as appropriate

Donny Mohammed

**RESPONDENT[S]**

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**DEFAULT**  **Decision**

**Order**

Tribunal Member: Shelley Lopez

Date: September 28, 2017





### Dispute Number & Declaration

Enter the Dispute Number as it appears on the Dispute Notice. *Example: ST-2017-12345 or SC-2017-12345*

SC-2017-003104

✓ I confirm I have provided the Dispute Notice to all respondents. The CRT advised me that no respondent has submitted a Dispute Response Form.

You must provide confirmation of service for each respondent you served and submit it with this form.

*If you served a respondent by registered mail, you must provide the Canada Post confirmation of delivery.*

*If you served a respondent by email (only if permitted by the tribunal rules), you must provide a copy of the reply email they sent to you acknowledging that they received your email.*

*If you served a respondent by fax (only if permitted by the tribunal rules), you must provide a copy of the fax confirmation sheet.*

*If you served a respondent by courier, you must provide confirmation of delivery from the courier.*

*If you served a respondent by delivering to a designated person or by following directions from the CRT, the CRT will rely on the signed proof of service as evidence you have served the respondent.*

### Claims and Order

#### Debt Claims

A debt claim is a claim for a specific amount of money that the other party has agreed to pay you. For example, the other party agreed in a contract to pay you for services or goods. Only include claims that you included in your application for dispute resolution. Do not add new claims. Do not include CRT fees, dispute-related expenses, or interest.

- Liability is assumed in default orders. This means you do not need to prove the other party is at fault.
- Do not provide evidence for debt claims.
- It is your responsibility to make sure the amounts you are claiming are supported by your contract or agreement.

Debt Claim Description (do not include interest)	Debt Claim Amount (\$)	CRT Order (\$)
a. -----	\$ -----	0
b. -----	\$ -----	0
c. -----	\$ -----	0
d. -----	\$ -----	0
<i>For CRT Use Only</i>		<b>Total Debt Claim Order:</b> 0





**Non-Debt Claims**

A non-debt claim is a claim where the exact amount owed has not been determined or agreed to. This also includes claims where you are asking a party to do or stop doing something. For example, the other party damaged your fence, and you are claiming the cost to repair it. Or, you want another strata owner to stop using your parking spot.

**Section 1: Non-Debt Monetary Claim Description**

If you are making a claim for money from the other party, please enter the details below. Only enter claims you included in your application for dispute resolution.

- Describe each claim.
- Describe evidence to support each claim in the section provided. You must provide a copy of evidence to support the amount or value of each claim. Please remember to attach an electronic copy of the evidence when you submit this form.
- Liability is assumed in default orders. This means you do not need to prove the other party is at fault. For example, if the other party damaged your fence and you are claiming repair costs, you should provide evidence to support the amount of money needed to repair your fence. The other party is assumed to be at fault because they did not respond to your Dispute Notice.

Non-Debt Claim (do not include interest)		Claim Amount (\$)	CRT Order (\$)
a.	Describe claim "a": My cost to fill holes in fence post after their fence is detached/removed.	\$ 20.00	20.00
	Describe evidence to support the amount of claim "a": See photo of attachment of their fence to my fence		
b.	Describe claim "b": -----	\$ -----	0
	Describe evidence to support the amount of claim "b": -----		
c.	Describe claim "c": -----	\$ -----	0
	Describe evidence to support the amount of claim "c": -----		
d.	Describe claim "d": -----	\$ -----	0
	Describe evidence to support the amount of claim "d": -----		
<i>For CRT Use Only</i>			<b>Total Non Debt Claim Order:</b> 20.00





**Section 2: Non-debt Claims - Other Orders (For example, requests for a party to do or stop doing something)**

If you would like the tribunal to order a party to do or stop doing something, include it below. Explain what you would like the tribunal to order, and why you would like the order. For example, an order that my neighbour stop spraying pesticide on my lawn because it is affecting my health.

Please note the CRT will not generally order parties to apologize, make donations, or stop serving on strata councils.

Requests for a party to do or stop doing something		
Party Name	What would you like them to do or stop doing?	Why?
Donny Mohammed	Want chainlink Fence removed from my Privacy Wood Fence	Have asked them to remove it, but has not been done.
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**CRT fees and dispute-related expenses**

You can claim CRT filing fees and reasonable expenses you paid to prepare for the CRT dispute resolution process. Generally, the CRT will not order the reimbursement of fees paid to a lawyer or other representative. Please submit your receipts to the tribunal by email, along with this form.

CRT Fees and Expenses Description	Expense Amount (\$)	CRT Order (\$)
a. Service fees (For example, courier or registered mail) <i>(receipts required)</i>	\$ 10.50	\$ 10.50
b. Cost of expert reports to support CRT claim <i>(receipt required)</i>	\$ 00.00	\$ 0
c. Other expenses _____ <i>(receipts required)</i>	\$ 00.00	\$ 0
d. CRT Application and other fees <i>(no receipts required)</i>	\$ 00.00	\$ 0
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		10.50

**Interest:**

Please enter the interest rate that applies to your claim. The interest rate must be specified in your contract or strata bylaws. If it is not, please refer to the *Court Order Interest Act* to identify the applicable interest rate. Do not submit your contract. The CRT will calculate interest from the date of the Dispute Notice to the date of the Default Order. For more information on Court Order Interest please see: [http://www.courts.gov.bc.ca/supreme\\_court/about\\_the\\_supreme\\_court/Court\\_Order\\_Interest\\_Rates.aspx](http://www.courts.gov.bc.ca/supreme_court/about_the_supreme_court/Court_Order_Interest_Rates.aspx)

Interest Item	Applicant Submission	CRT Order
Principal amount owing as of dispute notice date:	\$ -----	\$ -----
Contractual rate of interest (if any, specified as an annual rate)	% -----	-----
Interest on principal amount owing up to the Dispute Notice date	\$ -----	\$ 0
Interest from the Dispute Notice date to the Default Order date	N/A	\$ 0
<i>For CRT Use Only</i>		<b>Total Interest Order:</b>
Interest waived as no calculations done		0

*For CRT use only*

**Total Order** \$ 30.50

*The applicant is also entitled to post-judgement interest.*



## **CRT Default Decision and Order - Amended**

The applicant(s) applied for small claims dispute resolution with the Civil Resolution Tribunal (CRT or tribunal) and requested a default decision and order of the tribunal. The following is the tribunal's default Decision and Order.

### **CRT DECISION**

#### **Proof of Notice:**

1. A respondent must respond to a Dispute Notice within 14 days of receiving the Dispute Notice, as indicated on the Dispute Response Form or as permitted by the tribunal.
2. Having reviewed the evidence, I am satisfied, on the balance of probabilities, that the respondent(s) received the Dispute Notice and did not respond to it by the deadline set out in the tribunal's rules.

#### **Jurisdiction:**

3. The tribunal's jurisdiction is set out under sections 3.1 and 3.6 of the *Civil Resolution Tribunal Act* (Act). The applicable tribunal rules are those in place at the time the Dispute Notice is issued.
4. The tribunal will make a binding decision without the participation of the respondent(s). The tribunal will send the parties a copy of the final decision and order.
5. Under the Act and the tribunal's rules, in resolving this dispute the tribunal may make one or more of the following orders:
  - a. Order a party to do something
  - b. Order a party to refrain from doing something
  - c. Order a party to pay money

## **Decision:**

6. In accordance with the Act and the tribunal's rules, I find the respondent(s) must pay the applicant(s) the monetary amounts as set out in the preceding pages. This amount is payable immediately.
7. I find the applicant(s) is entitled to any applicable post-judgment interest, which is not included as part of the "total order" amount.
8. While liability is assumed in default decisions, I must still assess the value of the claims. The applicant claims \$20.00 to fix the holes in his own fence, made by the respondent's worker in attaching the respondent's fence to the applicant's fence. Given the nominal amount involved and based on the photos provided, I find this amount is not unreasonable. I find the respondent must pay the \$20 claimed, in addition to the claimed expenses of \$10.50, for a total monetary order of \$30.50.
9. The applicant also asks the tribunal to order the respondent to remove his chainlink fence from the applicant's wood fence. Again, liability is assumed and based on the photos I find this is an appropriate order.

## **CRT ORDER**

10. The following tribunal order is made subject to the following conditions being met:
  - (a) the deadline for making a Notice of Objection under section 56.1 (2) of the Act has expired (that deadline is 28 days after the party receives the decision), and
  - (b) the tribunal has advised the applicant(s) in writing that no Notice of Objection has been made.
11. In accordance with the Act and the tribunal's rules, further to the decision set out above, I order the respondent(s) to immediately pay the applicant(s) the monetary orders set out in the preceding pages. The applicant(s) is entitled to post-judgment interest.

12. I further order the respondent remove his chainlink fencing from the applicant's wood fence.

13. Orders for financial compensation or the return of personal property can be enforced through the Provincial Court of British Columbia, so long as the principal value is within its jurisdiction under the *Small Claims Act* (currently \$35,000). The applicant(s) can enforce this final decision by filing in the Provincial Court of British Columbia a validated copy of this Order. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Tribunal Member:

Shelley Lopez, Vice Chair

Tribunal Member Signature:

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