



**CRT USE ONLY**

File: SC-2017-004759

Type: Small Claims

Civil Resolution Tribunal

**BETWEEN:**

- Please enter legal names of all applicants exactly as they appear on the Dispute Notice or on the most recent Amended Dispute Notice
- If the applicant is a strata, identify either the legal name of the strata corporation or the separate strata section as appropriate

James Wyse

**APPLICANT**

**AND:**

- Please enter legal names of all respondents exactly as they appear on the Dispute Notice or on the most recent Amended Dispute Notice
- If the respondent is a strata, identify either the legal name of the strata corporation or the separate strata section as appropriate

679106 B.C. Ltd.

**RESPONDENT**

**CRT USE ONLY**

**DEFAULT DECISION AND ORDER**

Tribunal Member: Shelley Lopez

Date: November 8, 2017





## DISPUTE NUMBER & DECLARATION

Enter the Dispute Number as it appears on the Dispute Notice.

Example: ST-2017-12345 or SC-2017-12345

SC-2017-004759

- 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 evidence showing how you provided the Dispute Notice for each respondent and attach it separately to the email you send with this form. See the instruction sheet for what must be provided.***





<b>A. Monetary Claims and Orders</b> (do not include interest)	<b>Claim Amount (\$)</b>	<b>CRT USE ONLY</b> <b>Order (\$)</b>
<p>1. Describe claim "1":</p> <p>Direct Cost - These costs are for the two sub-trades engaged to remove the encroaching concrete patio and retaining wall.</p> <p>If claim 1 is a non-debt claim, describe evidence to support the amount of claim 1 (see above for information on debt claims and non-debt claims)</p> <p>Invoices attached.</p>	\$1328.25	\$1,328.25
<p>2. Describe claim "2":</p> <p>Huge personal time spent to collect these funds using Direct Invoicing, Small Claims and CR Tribunal web-site. 20 hours @ \$100/ - Reduced to match original claim.</p> <p>If claim 2 is a non-debt claim, describe evidence to support the amount of claim. If claim 2 (see above for information on debt claims and non-debt claims)</p> <p>No documentation, but over 1 1/2 years, this estimate of total time was probably exceeded twice over. Before retirement my personal professional billing rate was never less than \$200/hour.</p>	\$1,212.33	\$0.00
<p>3. Describe claim "3":</p> <p>-----</p> <p>If claim 3 is a non-debt claim, describe evidence to support the amount of claim. If claim 3 (see above for information on debt claims and non-debt claims)</p> <p>-----</p>		\$0.00
<b>Total Orders on Monetary Claims</b>		<b>\$1,328.25</b>

# REQUEST FOR DEFAULT DECISION AND ORDER



## B. NON-MONETARY 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. Or, you want another strata owner to stop using your parking spot.

*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

<b>Party name:</b> 679106 B.C. Ltd. (respondent)	<b>What would like them to do or stop doing?</b> Because the respondent's property is now up For Sale, I would like to be able to register this claim on title.
	<b>Why?</b> I don't think I will ever get paid otherwise.
<b>Party name:</b> -----	<b>What would like them to do or stop doing?</b> -----
	<b>Why?</b> -----
<b>Party name:</b> -----	<b>What would like them to do or stop doing?</b> -----
	<b>Why?</b> -----



### C. 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. If you are claiming more than \$50, please submit your receipts to the tribunal by email, along with this form. For expense claims for \$50 or less, retain your receipts in case the CRT requests them later.

CRT Fees and Expenses Description	Expense Amount (\$)	CRT USE ONLY Order (\$)
a. Service fees (For example, courier or registered mail) <i>(receipts required, if total of a. service fees, b. cost of expert reports, and c. other expenses is more than \$50)</i>	\$44.84	\$44.84
b. Cost of expert reports to support CRT claim <i>(receipts required, if total of a. service fees, b. cost of expert reports, and c. other expenses is more than \$50)</i>	\$0.00	\$0.00
c. Other expenses <i>(receipts required if more than \$50)</i> expense description: -----	\$0.00	\$0.00
d. CRT Application and other CRT fees		\$100.00
<b>Total fees and dispute-related expenses</b>		\$144.84



## D. INTEREST

Please enter the interest rate that applies to your claim. Note that interest applies only to monetary orders (debt and non-debt) and doesn't apply to non-monetary awards. The interest rate must be specified in your contract or strata bylaws and claimed in your Dispute notice. 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)

NOTE: If you don't calculate your interest claim correctly, or tick the box below to waive your claim, the CRT will return your form. There will be a delay in getting your default decision and order from the CRT.

Interest Item	Applicant Submission	CRT USE ONLY Order (\$)
1. Principal amount owing as of date of the dispute notice:	\$1,328.25	\$1,328.25
2. Contractual rate of interest (if any, specified as an annual rate) Leave this blank if you didn't claim a contractual rate of interest in the Dispute Notice. You will be entitled to interest under the Court Order Interest Act.	24%	.70%
3. Interest on principal amount owing up to the date of the dispute notice calculated according to the contractual rate (above, if applicable) or the <b>Court Order Interest Act</b>	\$459.42	\$11.85
4. Interest from the Dispute Notice date to the Default Order date 53 days x 26.825% p.a. x \$1,787.67 = \$69.63.		\$1.60
<b>Total Interest Order:</b>		\$13.45

I am waiving my claim for interest  
(Untick this box only after you have entered details of your interest claim above)

### CRT USE ONLY

The applicant is also entitled to post-judgment interest.

**TOTAL MONETARY ORDER:**

**\$1,486.54**



## **CRT Default Decision and Order**

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 order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the tribunal considers appropriate.

**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 non-debt claims. The evidence provided for the work the applicant paid a third party to do, to fix the poorly completed work done by the respondent, totals \$1,328.25. I have ordered that amount.
9. The applicant also claims \$1,212.33 for his "huge personal time" spent pursuing the collection with the respondent, at a rate of \$100 per hour for 20 hours. I do not consider any award for this claim to be appropriate. I find the estimate too speculative, and I also note that in accordance with the tribunal's rules the tribunal generally does not reimburse lawyer's fees either. I dismiss this claim.
10. The applicant also says "I would like to be able to register this claim upon title". The applicant's options for enforcement of this Order are described below. I cannot make any order that would specifically grant the applicant the right to register anything on the title to the respondent's property, as enforcement is outside of the tribunal's jurisdiction.
11. Finally, the applicant claims a 24% contractual rate of interest in his request for default. I have not allowed that rate because it was not specified in the Dispute Notice. The claimed interest of \$459.42 was also not specified in the Dispute Notice. The Dispute Notice only described the principal claim "plus interest". A contractual interest rate forms part of the claim and should have been specified in the Dispute Notice so that the respondent was aware of the tribunal claim. That the applicant had prior to the dispute sent the respondent documentation claiming 2%



monthly interest is not sufficient. Given the above, I have allowed pre-judgment interest under the *Court Order Interest Act* (COIA), since May 31, 2016, as set out in the preceding pages. The applicant is also entitled to post-judgment interest under the COIA.

## CRT ORDER

12. 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.
13. 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 under the COIA.
14. 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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