



Civil Resolution Tribunal

DRAFT RULES

effective April 1, 2019

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GENERAL RULES (Rules 1-49)

Purpose of these Rules (Rules 1-2)

- 1) These rules are meant to help the tribunal and parties resolve disputes through the tribunal.
- 2) These rules must be applied in a way that
 - a) takes reasonable steps to recognize and address the needs of tribunal participants,
 - b) is appropriate in the circumstances of each dispute, including considering fairness and proportionality,
 - c) recognizes any relationships between parties to a dispute that will likely continue after the tribunal proceeding is concluded,
 - d) facilitates speedy, accessible, inexpensive, informal and flexible processes,
 - e) encourages early and collaborative dispute resolution,
 - f) makes reasonable accommodations for the diverse circumstances of those using the tribunal,
 - g) recognizes the value of certainty and finality in the resolution of disputes and compliance with outcomes, and
 - h) promotes understanding of the dispute resolution processes for the tribunal's participants and the public.

Format and Interpretation of the Rules (Rules 3-5)

- 3) These rules place high importance on fairness and access to justice.
- 4) In exceptional circumstances, the tribunal can waive the application of a rule or timeline to facilitate the fair, affordable, and efficient resolution of disputes.
- 5) In calculating time under these rules, all references to days are counted as calendar days.

Participation (Rules 6-8)

- 6) All parties in a dispute being resolved by the tribunal must
 - a) make themselves available to participate in the tribunal process,
 - b) behave and communicate in a respectful manner, and

- c) follow the directions provided by tribunal members and case managers.
- 7) If multiple applicants choose to file an application for dispute resolution together, those applicants must nominate a primary applicant to
- a) start the tribunal process,
 - b) serve as the contact person for the multiple applicants, and
 - c) represent all of the applicants during the tribunal process, including having the authority to bind all applicants.
- 8) No person can record a case management discussion or tribunal decision process without permission from the tribunal.

Non-Compliance (Rules 9-10)

- 9) If a party does not comply with the Act, a rule, or an order at any stage of a tribunal proceeding, the party is non-compliant, and the tribunal may do any of the following
- a) decide the dispute relying only on the information and evidence that was provided in compliance with the Act, a rule or an order,
 - b) draw an adverse inference against a non-compliant party,
 - c) dismiss the claims brought by a party that did not comply with the Act, a rule or an order, and
 - d) the tribunal can require the non-complying party to pay to another party any fees and other reasonable expenses that arose because of a party's non-compliance with the Act, a rule or an order.
- 10) To determine how to proceed when a party is non-compliant the tribunal will consider
- a) whether an issue raised by the claim or dispute is important to persons other than the parties to the dispute;
 - b) the stage in the case management process at which the non-compliance occurred;
 - c) the nature and extent of the non-compliance;
 - d) the relative prejudice to the parties of the tribunal's order addressing the non-compliance; and
 - e) the effect of the non-compliance on the tribunal's resources and mandate.

Tribunal Forms (Rule 11)

- 11) The official versions of the tribunal's forms are the
 - a) electronic versions provided by the tribunal, and
 - b) paper versions authorized by the tribunal.

Tribunal Fees (Rules 12-15)

- 12) If a tribunal form or rule indicates a fee is required in order to take a step, the fee shown in the [Civil Resolution Tribunal Fees](#) must be paid before the tribunal will complete the step.
- 13) A person who cannot afford to pay a fee can ask the tribunal to waive payment of fees by
 - a) completing the steps required by the Fee Waiver Request Form, and
 - b) providing any other information requested by the tribunal.
- 14) In deciding whether to waive the payment of fees, the tribunal will consider the person's ability to pay, based on information about that person's financial situation.
- 15) If the tribunal waives payment of fees and later decides that a person should not have qualified for a fee waiver, the tribunal may order that person to pay the fees.

Information and Evidence (Rules 16-20)

- 16) Parties are responsible for providing evidence to support their position on each claim.
- 17) The tribunal can restrict the format, size, or amount of information and evidence submitted or exchanged during the tribunal process.
- 18) If information or evidence submitted is not of a format or quality necessary to support a fair and appropriate tribunal process, the tribunal can require the person who submitted the information or evidence to resubmit it in a different format or to reduce the amount of evidence submitted.
- 19) Parties must only submit original documents and physical evidence when they are directed or ordered to do so.
- 20) Unless the tribunal otherwise allows, all evidence and materials relied on by a party must be in English or translated to English.

Communications and Party Contact Information (Rules 21-22)

- 21) Every party or representative of a party must provide contact information including

- a) an email address or the reasons why that party or representative cannot provide an email address,
 - b) a mailing address, and
 - c) a telephone number.
- 22) The tribunal will send communications electronically unless it is satisfied that the party is unable to use electronic communication methods.

Monitoring and Use of Contact Information for Tribunal Communications (Rules 23-24)

- 23) Every party or representative of a party must
- a) avoid disclosure of, inappropriate access to or use of their contact information for tribunal communications by people other than the party or the party's representative,
 - b) closely monitor and use their contact information for tribunal communications until the dispute is fully resolved, and
 - c) notify the tribunal immediately if their contact information for tribunal communications change.
- 24) At any time during the tribunal process, the tribunal can require a party or representative to use communication types other than the ones selected by that party or representative.

Timing of Communications (Rules 25-27)

- 25) Electronic information and communications are considered received 24 hours after they are sent unless the electronic communication is made to serve a party with a Dispute Notice.
- 26) Information and communications sent by ordinary mail are considered received at noon on the 10th day after they are postmarked.
- 27) Information and communications sent by registered mail and courier delivery requiring a signature are considered received at the time shown on the delivery receipt.

Confidentiality of Settlement Discussions (Rule 28)

- 28) Discussions, negotiations and other communications made attempting to settle claims by agreement in the tribunal process, including information exchanged as part of those

communications, are confidential and must not be disclosed during the tribunal decision process or in any court proceeding or other legally binding process unless

- a) the parties agree that they can be disclosed,
- b) the parties are required by a court or tribunal to disclose them,
- c) it is evidence or information that would ordinarily be disclosed or produced in a tribunal decision process, court proceeding or other legally binding process, or
- d) the content of those communications or information is abusive, or includes threats of bodily harm made during or in connection with negotiation or settlement processes.

Translation and Interpretation for People Who Need Help Communicating (Rules 29-31)

29) A party can ask a family member, friend, or other person to provide support and assistance by translating written communications and interpreting spoken communications if

- a) that party has difficulty understanding or communicating in the English language, or
- b) the party's ability to communicate is limited for another reason.

30) A person must not provide translation, interpretation support or assistance for any party to that dispute if

- a) the person may be named as a witness by a party to a dispute, or
- b) the person has a direct interest in the outcome of a claim in the dispute.

31) The tribunal can decide which party must bear the costs of translation or interpretation and can direct any party to take further steps in relation to translation or interpretation of communications.

Representation of Parties in the Tribunal Process (Rules 32-44)

32) A child who is under 19 years old or a person with impaired mental capacity

- a) must participate in the tribunal process through a litigation guardian, and
- b) is not required to request permission from the tribunal to be represented.

33) A litigation guardian acting for a child or a person with impaired mental capacity must provide a declaration to the tribunal stating that the litigation guardian

- a) has the proper authority to act for that child or person with impaired mental capacity, and

- b) has no interest in the dispute adverse to the child or incapable adult.
- 34) If an application for dispute resolution involves a personal injury then a child or person with impaired mental capacity must also be represented by a lawyer or a person supervised by a lawyer unless the litigation guardian is the Public Guardian and Trustee.
- 35) At any time, a party can ask for permission to be represented in a dispute by providing information requested by the tribunal.
- 36) In considering a request for permission to be represented in a dispute other than a dispute under the tribunal's motor vehicle injury jurisdiction, a tribunal employee or member may consider whether
- a) any other party in the dispute is represented and if so, whether that representative is a lawyer or person supervised by a lawyer,
 - b) every party in the dispute has agreed to representation,
 - c) the person proposed as the representative is appropriate, and
 - d) in the interests of justice and fairness, the party should be permitted to be represented.
- 37) A party to a dispute under the tribunal's motor vehicle injury jurisdiction can be represented by
- a) a lawyer,
 - b) an insurance adjuster when the insurer may be required to provide coverage to pay damages in the dispute, or
 - c) any other representative the tribunal considers appropriate.
- 38) In considering whether a representative is appropriate, the tribunal may consider
- a) whether the proposed representative has an interest in the dispute that is adverse to the party's interest in the dispute,
 - b) whether the proposed representative may be a witness in the dispute,
 - c) the proposed representative's ability to communicate in English, and
 - d) the proposed representative's ability to respond to communications in a timely manner.
- 39) A refusal of a request for permission to be represented must be made by a tribunal member or staff, as delegated by the Chair.
- 40) A party who is represented must be present during all tribunal proceedings, or otherwise fully informed and providing direct input, unless the tribunal excuses the party from doing so.

- 41) Unless the tribunal authorizes otherwise, a party that is a corporation, partnership or other form of organization must act through one of the following:
- a) if the party is a strata corporation, by an authorized member of the strata council;
 - b) if the party is an incorporated entity, by a director, officer or authorized employee;
 - c) if the party is a partnership, by a partner or authorized employee; or
 - d) if the party is an unincorporated entity using a business name, by the owner of the business or any authorized employee.
- 42) An insurer who may be required to provide coverage to pay damages in a dispute can request to be added as a party to the dispute.
- 43) An insurer who is a party in a dispute must act through
- a) a director or authorized employee of the insurer, or
 - b) another person permitted by a tribunal employee or member to represent the insurer.
- 44) A person acting for or representing a corporation, partnership or other form of organization must have the authority to bind the party at all stages of the tribunal process.

Participation of Helpers and Representatives (Rule 45)

- 45) At any time during the tribunal process, a case manager or tribunal member can restrict the participation of a person providing representation or assistance in the tribunal process.

Timelines (Rules 46-47)

- 46) A tribunal officer can extend or shorten any timeline for any step or phase of the tribunal process.
- 47) The tribunal can pause the tribunal process and resume it at a future date.

Linking Disputes (Rules 48-49)

- 48) At any time during the tribunal process the tribunal can link disputes that have common parties or issues.
- 49) The tribunal may conduct joint case management or tribunal decision process activities for linked disputes.

STARTING THE TRIBUNAL PROCESS (Rules 50-80)

How to Apply for Dispute Resolution (Rules 50-52)

- 50) To request dispute resolution by the tribunal, an applicant must
- a) provide the tribunal with a completed Dispute Application Form, and
 - b) pay the required fee.
- 51) After an initial review of the Dispute Application Form, the tribunal will provide the primary applicant one of the following:
- a) a Dispute Notice and instructions for response, if the applicant is required to serve the respondent,
 - b) a request for more information about the application, or
 - c) an explanation for why a Dispute Notice will not be issued.
- 52) Before applying for a minor injury determination under the tribunal's motor vehicle injury jurisdiction a person must have requested a decision from the insurer about whether the injury is a minor injury under the *Insurance (Vehicle) Act*.

How to Serve Respondents (Rules 53-59)

- 53) The tribunal will serve the Dispute Notice and instructions for response on a respondent by regular mail if
- a) the applicant has provided the name and address information required for service by ordinary mail,
 - b) the mailing address for the respondent is in Canada, and
 - c) the respondent is a person, corporation, strata corporation, partnership, society, co-operative association or municipality.
- 54) A Dispute Notice and instructions for response served by the tribunal is deemed received 10 days after the day it is mailed by the tribunal unless
- a) the tribunal receives notification that the Dispute Notice and instructions for response are received earlier, or

- b) the tribunal receives satisfactory information that the Dispute Notice and instructions for response were not received by the respondent.
- 55) The tribunal will advise the applicant that the applicant must serve the Dispute Notice and instructions for response if
- a) the applicant does not provide the tribunal with the information required for the tribunal to serve the Dispute Notice and instructions for response, or
 - b) the tribunal receives satisfactory information that the Dispute Notice and instructions for response were not received by the respondent.
- 56) If the tribunal advises the applicant that the applicant must serve the Dispute Notice and instructions for response, the applicant must
- a) serve the Dispute Notice and instructions for response on every respondent named in the dispute and not served by the tribunal within 90 days from the day the Dispute Notice is issued by the tribunal,
 - b) complete the Proof of Service Form and provide it to the tribunal within 90 days from the day the Dispute Notice is issued by the tribunal, and
 - c) provide any other information or evidence about the Dispute Notice or service process requested by the tribunal.
- 57) The tribunal may refuse to resolve or dismiss the dispute if
- a) the Dispute Notice and instructions for response are not served on every respondent within 90 days from the day the Dispute Notice is issued by the tribunal, and
 - b) the applicant has not requested an extension for service or withdrawn their claim against any parties not served.
- 58) An applicant can ask the tribunal for more time to serve a respondent by completing the Request for Extension to Serve Form and providing it to the tribunal before the deadline for service has passed.
- 59) A Dispute Notice and instructions for response can be served on a respondent by email, registered mail, courier delivery requiring a signature or by delivering it in person.

How to Serve by Email (Rules 60-61)

- 60) Service by email is acceptable to satisfy the service requirements only if the respondent confirms receipt by sending a reply by email to the applicant by the date shown on the Dispute Notice.
- 61) If an attempt to serve by email is not confirmed by the respondent, the applicant can attempt to serve by registered mail, courier delivery requiring a signature, ~~fax~~ or by delivering it in person.

When a Dispute Notice is Considered Received (Rules 62-66)

- 62) A Dispute Notice and instructions for response served by email is considered received on the date shown on the emailed reply from the respondent.
- 63) A Dispute Notice and instructions for response served by registered mail is considered received on the date and time shown on the delivery receipt.
- 64) A Dispute Notice and instructions for response served by courier is considered received at the time and date shown on the signed proof of delivery.
- 65) A Dispute Notice and instructions for response served by delivery in person is considered received at the date and time it is delivered to the respondent.
- 66) Despite these rules, the tribunal may determine that the applicant has served a respondent with a Dispute Notice and instructions for response using another method permitted by the tribunal.

How to Serve Adults with Impaired Mental Capacity and Children (Rules 67-68)

- 67) If an applicant knows that a respondent has a committee of estate, a representative appointed in a representation agreement, or an attorney appointed in an enduring power of attorney, the applicant must serve the Dispute Notice and instructions for response on that person and
- a) the respondent or the person with whom the respondent normally resides, and
 - b) the Public Guardian and Trustee.
- 68) If a respondent is a child, the applicant must serve the Dispute Notice and instructions for response on that respondent's parent or guardian unless the tribunal orders otherwise.

How to Serve Strata Corporation or Sections of a Strata Corporation Respondents (Rule 69)

- 69) If the respondent is a strata corporation or a section of a strata corporation as defined in the *Strata Property Act*, a Dispute Notice and instructions for response must be served
- a) by registered mail, courier delivery requiring a signature or delivery in person to the strata corporation at its most recent mailing address on file in the Land Title Office, or
 - b) by delivery in person to a council member.

How to Serve Companies, Societies, Co-operative Associations, Partnerships and Others (Rules 70-75)

- 70) If a respondent is a company as defined by the *Business Corporations Act*, a Dispute Notice and instructions for response must be served
- a) by registered mail, courier delivery requiring a signature or delivery in person to the address shown for the registered office with the Registrar of Companies,
 - b) by delivery in person at the place of business of the company, to a receptionist or a person who appears to manage or control the company's business there, or
 - c) by delivery in person to a director, officer, liquidator, trustee in bankruptcy or receiver manager of the company.
- 71) If a respondent is an extraprovincial company as defined by the *Business Corporations Act*, a Dispute Notice and instructions for response must be served
- a) by registered mail, courier delivery requiring a signature or delivery in person to the address shown for the head office in the office of the Registrar of Companies if that head office is in British Columbia,
 - b) by registered mail, courier delivery requiring a signature or delivery in person to the address shown in the office of the Registrar of Companies for any attorney appointed for the extraprovincial company,
 - c) by delivery in person to the place of business in British Columbia of the extraprovincial company, to a receptionist or a person who appears to manage or control the company's business there, or

- d) by delivery in person to a director, officer, liquidator, trustee in bankruptcy or receiver manager of the extraprovincial company.
- 72) If a respondent is a society incorporated under the *Societies Act* or a co-operative association incorporated under the *Co-operative Association Act* a Dispute Notice and instructions for response must be served
- a) by registered mail, courier delivery requiring a signature or delivery in person to the address shown for the registered office with the Registrar of Companies, or
 - b) by delivery in person to a director, officer, receiver manager or liquidator of the society or co-operative association.
- 73) If a respondent is a partnership, a Dispute Notice and instructions for response must be served
- a) by registered mail, courier delivery requiring a signature or delivery in person to a partner, or
 - b) by delivery in person to the partnership's place of business, to a receptionist or to a person who appears to manage or control the partnership's business there.
- 74) If a respondent is a municipality located in British Columbia, a Dispute Notice and instructions for response must be served by providing a copy to the clerk, deputy clerk or a similar official by registered mail, courier delivery requiring a signature or delivery in person.
- 75) If a respondent is any other type of party an applicant must follow the directions provided by the tribunal.

If a Claim is a Result of a Motor Vehicle Accident (Rules 76-79)

- 76) If a claim relates to a motor vehicle accident the tribunal will serve the Dispute Notice and instructions for response by email on the Insurance Corporation of British Columbia (ICBC) to the email address provided by ICBC for service.
- 77) A Dispute Notice and instructions for response served by the tribunal on ICBC is considered received 24 hours after it is sent.
- 78) Service of a Dispute Notice and instructions for response on ICBC is deemed to be service on all respondents unless ICBC contacts the tribunal within 7 days of being served to inform the tribunal otherwise.

79) If ICBC does not accept service on behalf of a respondent, the service requirements for non-motor vehicle accidents will apply to the dispute.

If an Applicant has Difficulty Serving a Respondent (Rule 80)

80) An applicant who has difficulty serving a respondent, and who can provide a reasonable explanation for why the methods provided in the rules have failed or are likely to fail, can ask the tribunal for direction on using another method to satisfy the service requirements by providing to the tribunal a completed Request for Service Directions Form before the deadline for providing notice has passed.

RESPONDING TO A DISPUTE NOTICE (Rules 81-86)

What to do if you are Served with a Dispute Notice (Rules 81-82)

81) A respondent who is served with a Dispute Notice and instructions for response, or a party who is served with a Dispute Notice and instructions for response because of a Counterclaim Form or Third Party Claim Form, must within 14 days of receiving it, or if service was outside British Columbia, within 30 days of receiving it

- a) complete a Dispute Response Form,
- b) provide the Dispute Response Form to the tribunal and
- c) pay the required fee.

82) The tribunal may extend the deadline for providing a completed Dispute Response Form.

How a Respondent Can Make a Counterclaim (Rules 83-84)

83) Unless a case manager or tribunal member directs otherwise, within 30 days of providing the Dispute Response Form to the tribunal, a respondent can make a counterclaim against an applicant by

- a) indicating in a completed Dispute Response Form that the respondent will add at least one claim in the dispute,
- b) completing an Counterclaim Form,
- c) providing the Counterclaim Form to the tribunal, and

d) paying the required fee to add a claim.

84) A respondent does not need to make a counterclaim against an applicant if the respondent only wants to claim tribunal fees and dispute related expenses.

How Another Party Can Be Added to a Dispute (Rules 85-86)

85) Unless a case manager directs otherwise, a respondent who believes another person is responsible for a claim can make a third party claim against that other person by

- a) indicating in a completed Dispute Response Form that the respondent will apply for dispute resolution against the other person,
- b) completing an Third Party Claim Form identifying the other person and describing any claims against that person,
- c) providing the Third Party Claim Form to the tribunal, and
- d) paying the required fee to add a claim.

86) A respondent who makes a third party claim must complete the steps for “Starting the Tribunal Process” except

- a) the time frame for providing notice to the other person is 30 days instead of 90 days and
- b) the original Dispute Notice and any responses must be served along with the Dispute Notice and instructions for response for the additional claims.

FAILURE TO RESPOND TO A DISPUTE NOTICE (Rules 87-92)

Default (Rules 87-88)

87) A party named as a respondent to a dispute who fails to respond to a properly served Dispute Notice and instructions for response within the timeframe provided for in the rules, or who has requested an extension to respond and has not responded by the date shown on the extension, is in default.

88) If the tribunal notifies an applicant that no respondent provided a Dispute Response, and the applicant does not request a default decision within 21 days of being requested to do so, the tribunal may dismiss or refuse to resolve the dispute.

Requesting a Default Decision and Order (Rule 89)

- 89) If every respondent has properly been served and has not responded, an applicant can request a default decision and order by
- a) providing a completed Request for Default Decision and Order form together with supporting evidence of dispute-related expenses and the value of non-debt claims,
 - b) providing a completed Proof of Notice Form, and
 - c) paying the required fee to request a default decision and order.

Default Decisions and Orders (Rules 90-92)

- 90) When the tribunal makes a default decision and order, it will
- a) assume a respondent is liable, and
 - b) resolve the dispute without a respondent's participation.
- 91) In a request for a default decision and order for a debt claim, the tribunal will order payment of
- a) the amount claimed, and
 - b) applicable interest, claimed tribunal fees and reasonable dispute-related expenses.
- 92) In a request for a default decision and order for a non-debt claim, the tribunal will determine
- a) the amount the applicant is entitled to, based on the evidence provided, if the claim is for money, and
 - b) the terms of an appropriate order, in any other case, including applicable interest, claimed tribunal fees and reasonable dispute-related expenses.

CASE MANAGEMENT (Rules 93-114)

Overview of Case Management (Rules 93-98)

- 93) Case management includes the negotiation, facilitation, and tribunal decision plan preparation phases of the tribunal process.
- 94) During case management parties will receive support from a tribunal officer acting as a case manager.
- 95) The case manager will direct

- a) processes to be followed, including the types of communication the parties will use,
 - b) steps to be taken, and
 - c) timelines to be followed.
- 96) During case management, a case manager can refer any matter requiring a decision or order to a tribunal member, including a party's non-compliance with directions.
- 97) Except in extraordinary circumstances, a claim under the tribunal's motor vehicle injury jurisdiction relating to a minor injury determination will not go through the negotiation or facilitation phases of case management.
- 98) The case manager can adjust or modify the facilitation directions at any time during facilitation.

Agreements in Negotiation or Facilitation (Rules 99-105)

- 99) If the parties reach a resolution by agreement on any or all of the claims in their dispute, they can make the terms of their agreement an order of the tribunal by
- a) asking the tribunal to approve a consent resolution or consent dismissal order, and
 - b) paying the required fee.
- 100) In reviewing a request for a consent resolution order or consent dismissal order, the tribunal may consider whether the draft order is
- a) within the jurisdiction of the tribunal,
 - b) clear, and
 - c) any other factors the tribunal considers appropriate.
- 101) The agreement that is the subject of a requested consent resolution order must set out
- a) the terms of agreement among the parties, and
 - b) any other information the parties or the case manager think should be included.
- 102) If the agreement involves an adult with impaired mental capacity, the tribunal must review the agreement to ensure that it is fair, reasonable, and in the incapable adult's best interests.
- 103) If the agreement involves a child, the provisions of the Infants Act apply to the agreement and must be met before the parties request a consent resolution order.
- 104) If the tribunal issues a consent resolution order, it becomes a final decision of the tribunal.

- 105) If the parties agree to resolve some, but not all, claims by agreement, the case manager can record their draft agreement based on the terms agreed upon by the parties, and provide a draft consent resolution order to a tribunal member
- a) immediately, or
 - b) along with the Tribunal Decision Plan.

How Facilitation Works (Rules 106-109)

- 106) During facilitation, the case manager can review and approve all communications between the parties before they are delivered.
- 107) A case manager can communicate privately with one party at a time for the purpose of facilitated dispute resolution.
- 108) The case manager can direct any party in a dispute to provide to the tribunal and to every other party
- a) any information and evidence, including explanations of that information or evidence,
 - b) information about a party's ability to pay an amount reached by agreement or ordered by the tribunal,
 - c) responses to another party's information and communications, and
 - d) that party's position on any proposed resolution of a claim in the dispute.
- 109) At any time during case management, the case manager can
- a) recommend that a party take steps to add a party to the dispute,
 - b) permit a party to add, revise, or withdraw a claim to the dispute, and
 - c) determine the steps required to add a party or claim, including who should pay any costs associated with those steps.

End of Agreement-based Activities and Start of Tribunal Decision Preparation (Rules 110-113)

- 110) If the case manager decides the parties cannot resolve their dispute by agreement, the case manager will
- a) inform the parties that the facilitation phase is over,

- b) ask the parties to confirm the claims that are going forward for decision,
- c) provide directions for the preparation and exchange of expert evidence, if necessary, and
- d) ask the applicant to pay the tribunal decision fee.

111) If the applicant does not pay the tribunal decision fee, a respondent can pay it.

112) If no party pays the tribunal decision fee within the time period set by the case manager, the tribunal can

- a) refuse to resolve the dispute,
- b) proceed to hear the dispute, or
- c) dismiss the dispute.

113) If a party pays the tribunal decision fee, the process to prepare the dispute for a tribunal decision will begin.

Damages Likely to Exceed Tribunal Limit Amount – Motor Vehicle Injury Disputes (Rule 114)

114) If it appears that the damages in a claim under the tribunal's motor vehicle injury jurisdiction are likely to exceed the tribunal limit amount, the dispute can be escalated to a tribunal member for a preliminary decision on damages.

WITHDRAWAL AND DISMISSAL (Rules 115-119)

If a Party wants to Withdraw its Claims (Rules 115-116)

115) A party can request permission to withdraw on or more of its claims before the end of case management by following the directions of the tribunal.

116) A party can ask the tribunal member for permission to withdraw its claims during the tribunal decision process by contacting the case manager.

If the Parties want the Dispute Dismissed (Rules 117-119)

117) The parties can request a consent dismissal of a dispute at any time before the tribunal resolves the dispute by decision.

- 118) A request to dismiss a dispute will normally be granted if it has been agreed upon by all parties in the dispute.
- 119) A person requesting the dismissal of a claim made by a child or an adult with impaired mental capacity must include written consent from the Public Guardian and Trustee for that request.

TRIBUNAL DECISION PREPARATION (Rules 120-129)

The Tribunal Decision Process (Rule 120)

- 120) The tribunal can determine all matters relating to the tribunal decision process, including
- a) the format and length of the tribunal decision process,
 - b) any instructions and directions required to prepare for, or to complete, the tribunal decision process, and
 - c) any other matter within the authority of the tribunal.

Case Manager Support for Tribunal Decision Preparation (Rule 121)

- 121) To prepare the dispute for a tribunal decision, a case manager may support the parties in
- a) identifying and narrowing the claims or issues that will be decided in the tribunal decision process,
 - b) identifying the facts relevant to resolving the claims or issues in the tribunal decision process, and
 - c) taking any other steps to prepare the parties for the tribunal decision process.
- a) To prepare for the tribunal decision process, the case manager may give the parties directions, which set out
 - b) required information, and
 - c) steps, timelines and submission limits to prepare the dispute for the tribunal decision process.

Tribunal Decision Plan (Rules 122-126)

- 122) The case manager can direct the parties to complete a Tribunal Decision Plan, including directing the parties to
- a) provide information and evidence relating to any claims or issues,
 - b) provide information and explanations relating to their own or to another party's positions and submissions,
 - c) provide an agreed statement of facts,
 - d) exchange all the information and evidence required by the plan with the other parties,
 - e) respond to any submissions or evidence provided by other parties, and
 - f) complete any of the steps required by the plan by specific dates or within specific timelines.
- 123) For all disputes other than disputes under the tribunal's motor vehicle injury jurisdiction, the default timelines for completing submissions portion of the Tribunal Decision Plan are
- a) 7 days for the applicant to provide submissions,
 - b) 7 days for the respondent to respond, and
 - c) 3 days for the applicant to reply.
- 124) For disputes under the tribunal's motor vehicle injury jurisdiction, the default timelines for completing the submissions portion of the Tribunal Decision Plan are:
- a) 10 days for the applicant to provide submissions,
 - b) 10 days for the respondent to respond, and
 - c) 7 days for the applicant to reply.
- 125) A party may request an extension to the timeline for completing the Tribunal Decision Plan and to the limit on the length of submissions.
- 126) The tribunal may at any time order that a party be added to the dispute and make directions as to the process to be followed.

If a Dispute Requires more Facilitation (Rules 127-129)

- 127) If, at any time before or during the tribunal decision process, the tribunal decides that a dispute requires further facilitation, it can
- a) refer the dispute back to facilitation, and

- b) suspend the tribunal decision process until a case manager refers the dispute back to the tribunal decision process.
- 128) Case management ends when the case manager determines that the Tribunal Decision Plan is complete.
- 129) The tribunal can make a final decision without a Tribunal Decision Plan where all respondents are non-compliant.

EVIDENCE (Rules 130-160)

Relevant Evidence Must Be Disclosed (Rule 130)

- 130) A party must include in the Tribunal Decision Plan all evidence in their possession that may prove or disprove an issue in the dispute even if it does not support the party's position.

How to Summons a Person to Provide Evidence (Rules 131-133)

- 131) A party must contact the other person in writing to request the evidence, record, or other thing in that person's control, before issuing a summons.
- 132) If a party requires a person to provide evidence or to produce a record or other thing in that person's control, the party can issue a summons by
- a) consulting with the case manager,
 - b) completing the summons according to the case manager's directions,
 - c) providing the summons according to the instructions in the Summons Form or the directions of the tribunal, and
 - d) including with the summons the fees shown on the Summons Form.
- 133) If a person does not comply with the summons, or on the tribunal's own initiative, the tribunal may make an order against the person to provide evidence or to produce a record or other thing in that person's control.

Expert Evidence (Rules 134-144)

- 134) Expert opinion evidence will only be accepted from a person the tribunal decides is qualified by education, training, or experience to give that opinion.
- 135) An expert must state their qualifications in any written expert opinion evidence.
- 136) The case manager can
- a) direct a party to obtain expert opinion evidence, or
 - b) direct multiple parties to retain a joint expert to produce expert opinion evidence.
- 137) If the tribunal is directing a party to obtain expert opinion evidence, it can
- a) decide who must pay for it, and
 - b) include the cost of that expert opinion evidence as an expense a party is ordered to pay to another party at the end of the tribunal decision process, subject to any limits prescribed by regulation.
- 138) An expert giving evidence to the tribunal is there to assist the tribunal and not to advocate for any side or party in a dispute.
- 139) The case manager or tribunal member can set timelines for the parties relating to expert opinion evidence.
- 140) A party providing written expert opinion evidence to the tribunal must provide a copy of it to every other party by the deadline shown in the Tribunal Decision Plan or provided by the case manager, together with the expert's invoice and any correspondence with that expert relating to the requested opinion, unless the tribunal directs otherwise.
- 141) The tribunal may seek clarification of the expert report from the expert without advance notice to the parties.
- 142) If the tribunal seeks clarification of the report, both the question(s) and the response(s) must be provided in writing and will be disclosed to the parties for submissions.
- 143) The tribunal may accept written reports prepared by an expert without the need for the expert to attend an oral hearing.
- 144) A party may not rely on an expert opinion unless the party provides the expert's evidence to all other parties
- a) within 21 days of the case manager notifying the parties that facilitation has ended, or

- b) the deadline set by the case manager or tribunal member.

Limits on Expert Evidence for Motor Vehicle Injury Claims (Rule 145)

- 145) In determining whether additional expert evidence is reasonably necessary and proportionate for motor vehicle injury claims the tribunal may consider
- a) the type of bodily injury or injuries,
 - b) the nature of the claim to be decided by the tribunal,
 - c) the other evidence available,
 - d) the amount claimed,
 - e) the timeliness of the request, and
 - f) any other factors the tribunal considers appropriate.

Independent Medical Examinations (Rules 146-157)

- 146) For disputes filed under the tribunal's motor vehicle injury jurisdiction the tribunal may, on the tribunal's own initiative or on the request of a party, order an independent medical examination of the injured party at any point after a dispute response has been filed.
- 147) A party may request that the tribunal order an independent medical examination by filling out the Independent Medical Examination Request Form.
- 148) Before ordering an independent medical examination, the tribunal will consider:
- a) the type of bodily injury or injuries,
 - b) the issues in the dispute,
 - c) the extent and nature of existing expert medical evidence,
 - d) the amount claimed,
 - e) the ability of the parties to pay for their own experts,
 - f) whether all parties consent,
 - g) whether the party has failed to attend an expert examination requested by another party,
and
 - h) any other factors the tribunal considers appropriate.
- 149) The tribunal Chair may:
- a) create a roster of experts to perform independent medical examinations,

- b) retain experts from that roster, and
 - c) determine the terms and conditions, including remuneration and reimbursement of expenses, under which an expert may perform an independent medical examination.
- 150) The tribunal must set the terms of reference for the independent medical examination and report in the order appointing the expert including:
- a) the form and content of the report,
 - b) setting any time periods for providing the report,
 - c) setting a fee for the report,
 - d) providing any information or evidence the tribunal wants the expert to consider, and
 - e) the questions to be answered in the report.
- 151) Except with the written consent of all parties, the tribunal must not appoint an expert to provide an independent medical examination if the expert:
- a) has previously examined the injured party,
 - b) is treating or has previously treated the injured party,
 - c) has been consulted in the treatment of the injured party,
 - d) has acted as a consultant to the insurer with respect to the accident,
 - e) is a partner of or practices with an expert described above, or
 - f) appointment could otherwise result in a reasonable apprehension of bias.
- 152) If the expert retained to conduct an independent medical examination considers it necessary to examine the party to provide a report, the expert may require the party to attend for an examination by giving the party written notice.
- 153) If a party fails to attend the independent medical examination when requested or obstructs the examination without reasonable cause, the tribunal may, after giving notice to the party who failed to attend or obstructed the examination:
- a) direct the expert to reschedule the examination of the party and give the party notice of the rescheduled examination,
 - b) direct the expert to provide a report without examining the party, or
 - c) find the party to be in non-compliance and decide the dispute without the report.

- 154) The tribunal will give a copy of the expert's independent medical examination report to all parties and the parties will have the opportunity to make submissions to the tribunal about the independent medical examination report.
- 155) The tribunal may seek clarification of the independent medical examination report from the expert without advance notice to the parties.
- 156) If the tribunal seeks clarification of an independent medical examination report, the tribunal will
- a) require the question(s) and the response(s) to be provided in writing and
 - b) disclose the questions and responses to the parties for submissions.
- 157) The tribunal is not bound by an independent medical examination report.

Costs of Expert Evidence in a Motor Vehicle Injury Dispute (Rules 158-160)

- 158) A party who cannot afford to pay the cost of obtaining expert evidence in a motor vehicle injury dispute may request that the tribunal order an independent medical examination and that another party pay the cost of the independent medical examination by
- a) completing the Independent Medical Examination Request Form,
 - b) completing the steps required by the cost waiver section of the Independent Medical Examination Request Form, and
 - c) providing any other information requested by the tribunal.
- 159) In deciding a request to order that another party pay the cost of an independent medical examination, the tribunal will consider
- a) the requesting party's ability to pay, based on the information about that person's financial situation and
 - b) the likelihood that the party's claim will be successful.

THE TRIBUNAL DECISION PROCESS (Rules 161-173)

Contact with Tribunal Members (Rules 161-162)

- 160) A party must not contact a tribunal member directly.

- 161) If a party contacts a tribunal member directly, the tribunal may
- a) find the party to be non-compliant if the dispute is ongoing,
 - b) exercise its discretion to refuse to resolve the dispute,
 - c) refuse to resolve future disputes brought by that party, or
 - d) take any other action the tribunal deems necessary.

Timelines for Final Decisions (Rules 163-166)

- 162) When the Chair assigns a dispute to a member for decision, the tribunal will provide the parties with the name of the member assigned to the dispute and an estimated date for release of the decision.
- 163) In small claims disputes that are not resolved by default or non-compliance decisions the tribunal will provide any Orders resolving the dispute once the time for making a Notice of Objection has passed without the tribunal receiving a Notice of Objection.
- 164) The tribunal Chair may extend the time allowed for providing a final decision and orders resolving the dispute.
- 165) If the tribunal changes the date for providing its final decision and orders, it will notify the parties of that change.

Final Decisions and Orders (Rules 167-170)

- 166) On request of a party or on the tribunal's own initiative, the tribunal will take reasonable steps to protect the privacy of non-parties and will use initials in place of full names or use other descriptions where the tribunal considers it appropriate to do so.
- 167) A final decision or order can include
- a) an order for a party to pay money,
 - b) an order requiring a party to do or stop doing something, and
 - c) any order, terms or conditions the tribunal considers appropriate.
- 168) An order for a party to pay money to another party that is a child can include a requirement to make the payment to the Public Guardian and Trustee on behalf of that child.
- 169) An order for a party to pay money to a party who is a person with impaired mental capacity can include a requirement

- a) to make the payment to the committee of estate, the representative appointed in a representation agreement, or the attorney appointed in an enduring power of attorney, for that person,
- b) to make the payment to the party's legal representative, or
- c) if there is no committee of estate, representative appointed in a representation agreement, or attorney appointed in an enduring power of attorney for that person, to the Public Guardian and Trustee.

Recovery of Fees and Expenses (Rules 171-173)

170) If a dispute is not resolved by agreement, and a tribunal member makes a final decision, the unsuccessful party will usually be required to pay the successful party's tribunal fees and reasonable dispute-related expenses unless the tribunal member decides otherwise.

171) A final decision or order can also include a requirement for one party to pay to another party in the dispute some or all of

- a) any tribunal fees paid by the other party in relation in the dispute,
- b) any fees and expenses paid by a party in relation to witness fees and summonses, and
- c) any other reasonable expenses and charges that the tribunal considers directly related to the conduct of the tribunal process.

172) The tribunal will not order one party to pay to another party any fees charged by a lawyer or another representative in the tribunal dispute process unless

- a) the dispute is under the tribunal's motor vehicle injury jurisdiction, or
- b) the dispute is under another area of the tribunal's jurisdiction, and the tribunal determines that there are extraordinary circumstances which make it appropriate to order one party to pay to another party fees charged by a lawyer or other representative.

REQUESTS FOR CANCELLATION OF FINAL DECISIONS OR ORDERS MADE UPON DEFAULTS OR NON-COMPLIANCE (Rules 174-177)

When a Party May Request Cancellation (Rule 174)

- 173) A party may request the cancellation of a final decision or order that was made when that party was in default or failed to comply with the Act, rules or regulations by
- a) completing and submitting the Request for Cancellation of Final Decision or Dismissal Form,
 - b) providing a completed Dispute Response Form,
 - c) providing evidence to support their request,
 - d) paying the required fee, and
 - e) following any other directions provided by the tribunal.

What the Tribunal Will Consider on a Request for Cancellation (Rules 175-176)

- 174) In reviewing the request for cancellation, a tribunal member will consider
- a) whether the reason for default or non-compliance was due to an accident, illness or other cause beyond the control of the party making the request,
 - b) whether the party making the request was acting in good faith,
 - c) evidence supporting the request,
 - d) whether the Dispute Response Form shows a defence worth investigating and
 - e) if there is any delay in submitting the request for cancellation, the reason for that delay, along with evidence for the delay.
- 175) Generally, the tribunal will not cancel a final decision or order that was made when a party was in default or failed to comply with the Act, rules or regulations, if the reason for non-compliance or any delay was within the control of that party.

What Happens if a Decision and Order are Cancelled (Rule 177)

- 176) If the decision and order are cancelled, the tribunal will
- a) accept the Dispute Response Form as a Dispute Response,
 - b) provide the Dispute Response to all parties, and

- c) provide further direction to the parties for resolution of the dispute.

NOTICE OF OBJECTION (Rules 178-180)

- 177) To object to a tribunal small claims decision a party must, within 28 days of receiving a Notice of Final Decision, submit a completed Notice of Objection Form to the tribunal and pay the required fee.
- 178) A party may not submit a Notice of Objection for a tribunal small claims decision that was made when a party was non-compliant or in default.
- 179) Once a Notice of Objection Form has been submitted, the tribunal will provide the parties with a copy of the Notice of Objection Form and a Certificate of Completion indicating that the parties have completed the tribunal's process.

TRIBUNAL INFORMATION AND DOCUMENTS (Rules 181-188)

Public Requests for Information from Tribunal Disputes (Rules 181-184)

- 180) A person who wants to know the names of parties or any other information in a tribunal dispute that is not already publicly available through the tribunal or another public website can ask the tribunal for that information by
 - a) completing the Public Information Request Form, and
 - b) paying the required fee.
- 181) In reviewing a public information request the tribunal
 - a) must consider whether the information can be obtained by the requestor from another publicly available source,
 - b) must consider the privacy of any person whose information might be the subject of the request,
 - c) must maintain confidentiality of settlement discussions in all open or closed tribunal disputes, unless otherwise required by law,

- d) must consider the interests of justice and fairness, both for the person making the request and for any person whose information would be disclosed,
- e) can redact any part of the information it decides to provide to the requestor, and
- f) can make an order setting out any limitations on the use or handling of any information it chooses to release.

182) The tribunal can require a party to pay fees for obtaining copies of information or records from the tribunal.

183) A tribunal member can, at any time, order that some or all information in a dispute be sealed or redacted.

Conversion of Evidence, Information, Records and Other Information (Rule 185)

184) The tribunal can

- a) Convert evidence, information, records and other data into an electronically or digitally stored format,
- b) deem the converted evidence, information, records or other data as an accurate representation of the information contained in the original, and
- c) return or dispose of the original form of the evidence, information, record or data after it has been converted.

Validated Copies of Tribunal Documents (Rules 186-188)

185) A tribunal officer can validate a record or other document by

- a) including text on a copy of the document saying it is validated, and
- b) including a signature on a copy of the document.

186) A signature on a validated document produced by the tribunal can be applied electronically.

187) A person who wants to obtain a validated copy of a tribunal document must

- a) provide the information required for the request, and
- b) pay the required fee.

DRAFT

GLOSSARY

Some terms from the *Civil Resolution Tribunal Act* have been simplified in these rules. The following glossary is intended to be used for convenience and reference only.

“Accident claim” in the *Act* is the same as “motor vehicle injury” in the rules.

“Civil Resolution Tribunal Act” in the *Act* is the same as “the Act” in the rules.

“Default” in the rules refers to a situation where a party does not comply with section 7(2) of the *Act*.

“Initiating notice” in the *Act* is the same as “Dispute Notice” in the rules.

“Initiating party” in the *Act* is the same as “applicant” in the rules, or a respondent who wants to make a counterclaim or third party claim under the rules.

“Request for tribunal resolution” in the *Act* is the same as “Dispute Application” in the rules.

“Responding party” in the *Act* is the same as “respondent” in the rules.

“Hearing” in the *Act* is the same as “tribunal decision process” in the rules.