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The world's first online court

The world's first online court is to be found in the Canadian province of British Columbia. But searching the streets for it is unlikely to get you very far: although the court has a handful of full-time members and staff working mainly from small, anonymous offices in Victoria, the provincial capital – and across the water in the much larger city of Vancouver – its presence is entirely online.¹

British Columbia's Civil Resolution Tribunal (CRT) is certainly not the first computerised dispute resolution service. But its main claim to fame is as the first to be fully integrated in a public justice system.² All CRT decisions are published.³ Once a CRT order has been filed at the British Columbia Provincial Court,⁴ it has the same effect as an order of that court and can be enforced just as effectively.⁵

That's not something that happens very often. The CRT's aim, as set out in the statute⁶ that led to its launch in July 2016, is "to encourage the resolution of disputes by agreement between the parties". Dispute resolution services have to be provided in a way that is "accessible, speedy, economical, informal and flexible". It is only if agreement cannot be reached that the tribunal must "resolve the dispute by deciding the claims brought to the tribunal". And it is only if the tribunal's findings are not respected that enforcement proceedings will be necessary.

Shannon Salter, the lawyer who chairs the CRT, told me about the thinking behind it:⁷

In Canada – and these figures are the same in the US, in England and Australia – we know that, for every 100 people who go down to a courthouse and file a civil claim, only two of those will go to trial. But we have oriented our entire civil justice system in the common-law world around this idea of a day in court – that we know doesn't come 98 per cent of the time. And we know that about half of those 98 per cent of people don't settle their claim: they just give up because they run out of time and money and energy.

We have tried to flip that model. We assume that you're not going to have your day in court: the equivalent, for us, is a day in front of a tribunal member. We assume that, with the right support and help, you can reach a consensual agreement. And we have built the tribunal around that notion. We know, statistically, that people are happier with agreements they reach themselves – and also, surprisingly, that they are more likely to adhere to them than even a court order. It makes sense to empower people to be active participants in their dispute resolution, as much as you can, and leave adjudication as a last resort.

As deputy attorney general of British Columbia, Richard Fyfe QC has responsibilities for supporting the province's courts. He recalled⁸ that setting up the CRT was part of a move to remove work from the courts that was not thought to need a formal hearing, including some motoring offences as well as civil claims. But he rejected my suggestion that the CRT was simply justice on the cheap:

The court process is expensive. It has its place and it's a very appropriate process to use where it's needed. But rather than use it as a dumping ground for every type of issue, it makes sense to consider what can be done to take things out of court that don't need to be there. And, if something is going to end up in court, it makes sense to ensure that it is "court-ready".

Although the geography of their province makes it harder for British Columbians to attend a court than it does for most people in England and Wales, the problems of access to justice at proportionate cost in relatively low-value claims are universal. Other jurisdictions can learn from how they have been tackled on Canada's Pacific coast.

References

1. <https://civilresolutionbc.ca> It can also be reached through a Post Office box number.
2. Shannon Salter, ODR and Justice System Integration, (2017) 34 Windsor Yearbook of Access to Justice 112, 114: <https://ssrn.com/abstract=2965745>. Even so, the court comes under the executive branch of government and is regarded as an administrative tribunal or a portal to the courts. The judges played no part in its development.
3. <https://decisions.civilresolutionbc.ca/crt/en/nav.do>
4. <http://www.provincialcourt.bc.ca>

5. <https://civilresolutionbc.ca/how-the-crt-works/how-the-process-ends/#how-do-i-enforce-my-small-claims-order>. There is also a limited appeal process: <https://civilresolutionbc.ca/how-the-crt-works/how-the-process-ends/#what-if-i-dont-agree-with-the-decision>

6. Civil Resolution Tribunal Act 2012, section 2(3)(a):
http://www.bclaws.ca/civix/document/id/complete/statreg/12025_01

7. Interview with the author, Vancouver BC, 7 December 2017.

8. Interview with the author, Victoria BC, 6 December 2017.

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