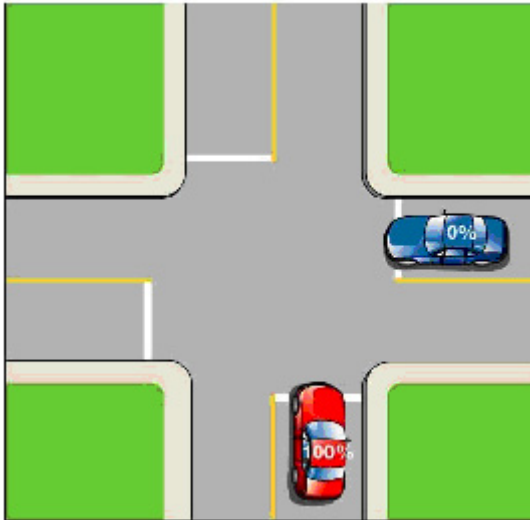


Crash at intersection with no traffic signals

If two vehicles arrive at an uncontrolled intersection at approximately the same time, the vehicle on the right has the right of way. In a crash, the vehicle on the left is usually 100 per cent at fault.

If a vehicle arrives at the intersection first and enters the intersection prior to another driver, it has the right of way. (*Motor Vehicle Act, Section 173*)



Motor Vehicle Act section(s): Sections 173

Who did the courts find at fault?

When ICBC assesses who is at fault for a crash, we do so based on how the courts have decided fault in previous, similar crashes.

The courts have the final say about who is at fault. Here is what the courts in British Columbia have decided in cases like the crash example above:

Related B.C. court cases

- [Fewster v. Milholm](#)
- [Masai v. Taylor](#)
- [Walker v. Brownlee](#)

Fewster v. Milholm

In the 1943 British Columbia Court of Appeal decision of *Fewster v. Milholm* [1943] 3 WWR 27, a passenger in a taxi cab was injured when the cab was hit by another vehicle approaching from the right. The cab was approximately a third to half of the

way across the intersection, however the other driver failed to see it and hit the cab on its right rear side.

The court found that the other driver had made no attempt to avoid the collision. In such a situation, the court held that even though a vehicle coming from the right did have the right of way, because the cab was reasonably and substantially within the intersection, the other vehicle had a duty to wait until the way was clear. Therefore, the other driver was 100 per cent at fault.

Masai v. Taylor

In the British Columbia Supreme Court case of *Masai v. Taylor* [1999] WL 33188902, a cyclist was riding down the steep hill of 14th Avenue in Vancouver. The driver was travelling north on Collingwood Street. The driver had crossed approximately ½ way across the intersection when the cyclist ran into him. The judge said that the cyclist was travelling close to 50 km/h.

The judge said that the law was that where two vehicles enter an intersection from different roads at approximately the same time and the intersection is not controlled by signals or stop signs, the driver on the right has the right of way. In this case that would have given the driver the right of way. The judge said that even if a driver had the right of way he could not wear it like an invisible suit of armour. Having the right of way did not give a driver the absolute right to have entered the intersection without having taken reasonable care not to endanger vehicles coming from the left. (This line was taken from the case of *Erikson v. Erikson* (Guardian ad litem of) (June 28, 1994) Doc. Cranbrook 2165 (BCSC)). The driver did look left and saw nothing. Even if he had seen something, the cyclist was going so fast he would not have been able to avoid the collision. Therefore, the cyclist was 100 per cent at fault.

Walker v. Brownlee

The Supreme Court of Canada case, *Walker v. Brownlee* (1952) 2 DLR 450, established that a driver who entered an intersection—even though he had the right of way—should have acted to avoid the collision if, by using reasonable skill, he could have prevented it. In other words, if the driver who was in the servient position (that is, who did not have the right of way) went through the intersection in complete disregard of his duty to yield the right of way and a collision resulted, the only way that the other driver would also be found at fault is if he could prove that the other driver became aware, or should have become aware, that he was disregarding the law, and had sufficient opportunity to avoid the accident. If there is still doubt, then the court will give the driver who had the right of way the benefit of the doubt.