



# Civil Resolution Tribunal

Date Issued: May 3, 2024

File: SC-2023-002331

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Neish v. Eagle Valley Arts Council*, 2024 BCCRT 423

B E T W E E N :

JOSEPHINE NEISH

**APPLICANT**

A N D :

EAGLE VALLEY ARTS COUNCIL

**RESPONDENT**

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## REASONS FOR SUMMARY DECISION

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Tribunal Member:

Kate Campbell, Vice Chair

## INTRODUCTION

1. This is a summary decision of the Civil Resolution Tribunal (CRT).
2. The applicant, Josephine Neish, was a member of the respondent organization, Eagle Valley Arts Council (EVAC). EVAC is a society registered under the *Societies Act* (SA).

3. Mrs. Neish says EVAC cancelled her membership and banned her from its building, with no explanation. She requests \$3,610 as compensation for the loss of membership, including paid fees, lost value from EVAC's sold property, unpaid art rental, lost opportunity to sell her art, legal fees, research, and her own hardship in finding a new art group.
4. EVAC says it acted in good faith, and consistent with the SA, and that Mrs. Neish actually resigned from EVAC. EVAC also says the CRT does not have jurisdiction (legal authority) to resolve this dispute, because it is about termination of society membership.
5. Mrs. Neish is self-represented in this dispute. EVAC is represented by its president.
6. For the reasons set out below, I find the CRT does not have jurisdiction to resolve this dispute. So, I refuse to resolve it.

## **JURISDICTION AND PROCEDURE**

7. The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
8. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. As the CRT's mandate includes proportional and speedy dispute resolution, I find I can fairly hear this dispute through written submissions.
9. The CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even if the information would not be admissible in court.
10. This dispute was filed under the CRT's small claims jurisdiction, as set out in section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT also has jurisdiction over claims in respect of the SA, as set out in CRTA section 129.

11. EVAC says this dispute should be decided under the CRT's societies jurisdiction, under CRTA section 129. I address that issue in my reasons below.

## **ISSUE**

12. Does the CRT have jurisdiction to decide this dispute?

## **REASONS AND ANALYSIS**

13. In a civil proceeding like this one, Mrs. Neish, as the applicant, must prove her claims on a balance of probabilities. I have read the parties' submitted evidence and arguments, but refer only to what I find relevant to provide context for my decision.
14. As noted above, Ms. Neish filed this dispute under the CRT's small claims jurisdiction. EVAC says the dispute should have been filed under the CRT's societies jurisdiction. EVAC also says that in any event, the CRT has no jurisdiction to decide the dispute because it is about termination of society membership.
15. The relevant legislation provides as follows:
- CRTA section 118 – in its small claims jurisdiction, the CRT can resolve claims for debt or damages under \$5,000.
  - CRTA section 129 – in its societies jurisdiction, the CRT can resolve claims in respect of the SA, including the interpretation or application of the SA, or an action, threatened action, or decision by a society in relation to a member.
  - CRTA section 1(2) – a claim that may be either a CRT small claim or a claim in another claim category within the CRT's jurisdiction must be adjudicated as the claim category that is not a small claim.
16. As explained above, Mrs. Neish says the EVAC, which is a society, terminated her membership, which led to her claimed financial losses. Based on this, I find her claim properly falls within the CRT's societies jurisdiction. Specifically, she says EVAC's

action or decision to terminate her membership caused her claimed losses. So, I find this dispute is a societies claim, based on CRTA sections 118 and 1(2).

17. EVAC relies on CRTA section 130(2)(a), which says the CRT does not have jurisdiction over a claim about any matter relating to the termination of society membership.
18. I find Mrs. Neish's claim is a matter relating to the alleged termination of her society membership. Again, that is the action or decision that she says caused her claimed losses. So, based on CRTA section 130(2)(a), I find the CRT has no jurisdiction to decide Mrs. Neish's claim.
19. Even if the dispute was properly filed as a small claims dispute, I find the CRT also has no jurisdiction to decide the dispute because of SA section 109.2(5). That provision says no one may file a CRT dispute application "with respect to any matter relating to the termination of membership in a society." SA section 109.2(5) applies to CRT small claims disputes and CRT societies disputes.
20. I note that Mrs. Neish was aware of this jurisdictional issue and had an opportunity to respond to it, as it was raised in EVAC's Dispute Response Form and in its written submission. The case manager's notes also indicate that the issue was discussed with the parties during the CRT's facilitation phase. Mrs. Neish did not provide any arguments about the jurisdictional issue, although she had the opportunity to do so.
21. In conclusion, I find that under CRTA section 130(2)(a) and SA section 109.2(5), the CRT has no jurisdiction to resolve this dispute.
22. CRTA section 10 says the CRT must refuse to resolve a claim that is not within its jurisdiction. So, I refuse to resolve Mrs. Neish's claim and this dispute. I make no findings about the merits of Mrs. Neish's claim.
23. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Mrs. Neish was unsuccessful, I dismiss her claim for

reimbursement of CRT fees, and her claim for reimbursement of dispute-related legal fees and time spent. EVAC is the successful party. It paid no CRT fees and claims no dispute-related expenses, so I award no reimbursement.

## **ORDER**

24. I refuse to resolve Mrs. Neish's claims and this dispute.

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Kate Campbell, Vice Chair