



# Civil Resolution Tribunal

Date Issued: June 12, 2019

File: SC-2018-007122

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *435593 BC Ltd. v. District of Lillooet*, 2019 BCCRT 719

B E T W E E N :

435593 BC Ltd.

**APPLICANT**

A N D :

District of Lillooet

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Trisha Apland

### INTRODUCTION

1. The applicant, 435593 BC Ltd., operates an auto repair shop in the respondent, District of Lillooet (District). The applicant claims reimbursement of \$618.94 in legal fees it incurred to dispute a bylaw enforcement notice issued by the District. The applicant says it was not acting contrary to District bylaws.

2. The District denies the applicant's claims. It says the District is legally empowered to enforce its bylaws, the applicant was acting contrary to Bylaw No. 275, and the District acted properly when it issued the bylaw enforcement notice. The District also says the applicant failed, with no reasonable excuse, to notify the District of its alleged damages within the statutory notification period, and the applicant has no legal cause of action.
3. The applicant is represented by Allan James, who I infer is an employee or principal. He is not a lawyer. The District is represented by Maryam Sherkat, who is the lawyer for the District's insurer.

## **JURISDICTION AND PROCEDURE**

4. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
5. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submission because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
6. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
7. Under tribunal rule 9.3(2), in resolving this dispute the tribunal may make one or more of the following orders:

- a. order a party to do or stop doing something;
- b. order a party to pay money;
- c. order any other terms or conditions the tribunal considers appropriate.

## **ISSUE**

8. The issue in this dispute is whether the applicant is entitled to reimbursement from the District for legal fees of \$618.94.

## **EVIDENCE AND ANALYSIS**

9. On May 4, 2018, the District issued a traffic and parking regulation bylaw notice because it determined the applicant was keeping derelict vehicles and parts on private property contrary to the District's Bylaw No. 275. It notified the applicant that it must remove the derelict vehicles and parts within 14 days of the notice date or the District would remove them at the owner's expense. The applicant disagreed and hired a law firm to dispute the notice.
10. On May 14, 2018, an articulated student for the law firm wrote the District arguing that the District's bylaw notice was in error. On May 22, 2018, the parties exchanged emails on their respective interpretation of District bylaws.
11. On June 25, 2018, the District wrote the applicant confirming it had addressed the infraction issues on its property.
12. On July 19, 2018, the law firm billed the applicant for its services.
13. On August 24, 2018, the applicant wrote the District and asked for reimbursement of its legal fees. A date stamp shows the District received the letter on August 27, 2018.
14. The District says the applicant's claim is out of time under the *Local Government Act* (LGA). Section 736 of the LGA says a municipality is not liable for damages

unless notice in writing, setting out the time, place and manner in which the damage has been sustained, is delivered to the municipality within two months from the date on which the alleged damage was sustained. It also says failure to give notice within two months is not a bar to the action if the applicant had a reasonable excuse and the defendant was not prejudiced by insufficient notice.

15. The wording of section 736 of the LGA refers to liability for damages, which here are the applicant's legal costs. In the context of this dispute, I find the applicant's claim for damages arose on the date the law firm completed its legal work, not the date that the law firm sent the applicant an invoice. I therefore find the applicant's claim for damages arose in May 2018. The applicant did not notify the District he was claiming legal fees until late August, which I find is past the two-month notice period. The applicant provided no explanation for this delay, despite having the opportunity to do so in reply. Therefore, I find the District is not liable for the applicant's legal fees under section 736 of the LGA.
16. Even absent any delay in notice, I still would have not have allowed the applicant's claim for legal fees. Except in extraordinary cases, as set out in the tribunal's rules, the tribunal does not award a party legal fees as a dispute-related expense. These rules are consistent with the self-representation provision in section 20 of the Act. While the applicant's legal fees were incurred before this tribunal proceeding began, I find they are sufficiently related to the main issue in this dispute and this is not an extraordinary case.
17. According to the tribunal's rules, I find the applicant as the unsuccessful party, is not entitled to reimbursement of tribunal fees or dispute-related expenses.

## **ORDER**

18. I dismiss the applicant's claims and this dispute.

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Trisha Apland, Tribunal Member