



# Civil Resolution Tribunal

Date Issued: May 20, 2020

File: SC-2019-009543

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wonch v. The Owners, Strata Plan LMS 3227*, 2020 BCCRT 549

B E T W E E N :

KATHERINE WONCH

**APPLICANT**

A N D :

The Owners, Strata Plan LMS 3227

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Trisha Apland

## INTRODUCTION

1. This is a summary decision of the Civil Resolution Tribunal (tribunal) on whether the tribunal has jurisdiction to decide the applicant's claim for legal fees.
2. The applicant, Katherine Wonch, owns a strata lot in the respondent strata corporation, The Owners, Strata Plan LMS 3227 (strata). The applicant says she

incurred legal expenses to attempt to enforce a prior 2019 tribunal decision that was decided within the tribunal's strata property jurisdiction. The applicant seeks reimbursement of \$4,360.11 in legal fees.

3. The strata says that it complied with the 2019 orders and the applicant did not need to hire a lawyer. The strata disputes that it is responsible for her legal fees.
4. The applicant is self-represented. The respondent is represented by a strata council member.

## **JURISDICTION AND PROCEDURE**

5. These are the tribunal's formal written reasons. The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act (CRTA)*. 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.
6. Where permitted by section 118 of the CRTA, in resolving this dispute the tribunal may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the tribunal considers appropriate.

## **ISSUE**

7. The issue is whether the tribunal has jurisdiction to decide the applicant's claim for reimbursement of legal fees.

## **BACKGROUND AND ANALYSIS**

8. On August 1, 2019 the tribunal decided a previous dispute under the tribunal's strata property jurisdiction under section 121 of the CRTA. The tribunal's prior decision is published as *Wonch v. The Owners, Strata Plan LMS 3227*, 2019

BCCRT 929 (2019 *Wonch*). In that decision, a tribunal Vice Chair noted the tribunal had issued a February 12, 2019 consent resolution order that required the strata to take certain actions. In the 2019 *Wonch* decision, the Vice Chair resolved the applicant's remaining claims by declaring that an amenity room decision was invalid, ordering that the strata treasurer hold a meeting to review finances, fees and budgets, and ordering reimbursement of the applicant's tribunal fees.

9. In 2019 *Wonch*, the applicant did not claim dispute-related legal expenses, and none were awarded under section 49 of the CRTA. The legal fee invoices show that all the claimed legal fees were incurred for work performed several weeks after the tribunal Vice Chair issued the 2019 *Wonch* decision. Therefore, I find the applicant is not claiming for legal work to pursue the initial claims.
10. In the application for dispute resolution, the applicant said she is seeking legal fees to enforce the tribunal's consent resolution order and order following the 2019 *Wonch* decision. In her submissions, the applicant says she needed to hire a lawyer to write to the strata on her behalf and to register the orders with the BC Supreme Court. The applicant says that after her lawyer's letter, the strata started to comply with the orders. She says she should never have had to involve a lawyer to make the strata comply. As mentioned above, the strata disputes that it failed to comply and says the applicant did not need to hire a lawyer.
11. In April 2020, I invited the parties to provide submissions on the tribunal's jurisdiction to hear this dispute. I asked the parties to comment on whether the tribunal had jurisdiction over legal fees paid to enforce the tribunal's own decisions and orders. The strata chose not to provide any submissions, though it had the opportunity to do so.
12. The applicant's position is that the tribunal has jurisdiction over her claim for reimbursement of legal fees. She argues that the claimed legal fees are not directly related to the tribunal's 2019 *Wonch* decision. Instead, she argues that the legal fees were to "nudge" the tribunal to follow the *Strata Property Act*. I find this argument is somewhat at odds with her application for dispute resolution, in which

she claims legal fees for enforcement of the 2019 *Wonch* orders. Also, the lawyer's August 30, 2019 letter to the strata and the work described in the lawyer's invoices show the legal work was related to order enforcement.

13. I note that if the applicant's legal fees were incurred for other legal work to make the strata follow the SPA more generally, the applicant should have brought her claim under the tribunal's strata property jurisdiction. At any rate, the tribunal's rule 9.5(3) says that the tribunal typically does not award a party legal fees for dealing with a dispute, unless there are extraordinary circumstances. I find there are no extraordinary circumstances here and I would have dismissed the claim if it was for other legal work.
14. I find the applicant's claim is for reimbursement of legal fees related to the enforcement of the tribunal's decision and orders. I also find that enforcement is expressly within the BC Supreme Court's jurisdiction. Specifically, section 57 of the CRTA says that the tribunal's final decision and order may be enforced, by filing, in the BC Supreme Court, a valid copy of the order. This includes a consent resolution order (sections 26(4) and 41(2)). A person who fails or refuses to comply with an order of the tribunal is liable, on application to the BC Supreme Court, to be punished for contempt as if in breach of an order or judgment of the BC Supreme Court (section 60(1)). The rules for dispute-related expenses, which are referred to as "costs" are set out in the Supreme Court Civil Rules. The *Court Order Enforcement Act* also contains provisions on enforcement costs.
15. I find the CRTA does not also give the tribunal the authority to enforce its own decisions and orders. I find the applicant's claim for legal fees to enforce the tribunal's 2019 *Wonch* decision and orders is not within the tribunal's small claims jurisdiction. Under section 10 of the CRTA, the tribunal must refuse to resolve a claim that it considers is not within the jurisdiction of the tribunal. Therefore, I find I must refuse to resolve the applicant's claim in this small claims dispute.

## **ORDERS**

16. I refuse to resolve the applicant's claim for reimbursement of legal fees under section 10 of the CRTA.

17. In the circumstances, I direct the tribunal to refund the applicant's tribunal fees.

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Trisha Apland, Tribunal Member