



Civil Resolution Tribunal

Date Issued: June 3, 2022

File: SC-2021-006704

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wolfe v. Peace River Regional District*, 2022 BCCRT 652

B E T W E E N :

STEPHEN WOLFE

APPLICANT

A N D :

PEACE RIVER REGIONAL DISTRICT

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. The applicant, Stephen Wolfe, owns a property in the respondent Peace River Regional District (PRRD). Mr. Wolfe alleges PRRD failed to follow its bylaws when calculating and billing his user fees and parcel taxes for water and sewer usage. He

also says PRRD is “double billing” him. He seeks \$4,011.40 in alleged overcharges, broken down as \$1,897.48 for user fees and \$2,113.92 for parcel taxes.

2. PRRD says it acted properly under the *Local Government Act* (LGA) by passing bylaws to provide for water and sewer service funded by user fees and a parcel tax. It says it has followed the applicable bylaws and correctly calculated the amounts owing. It says the claims should be dismissed.
3. Mr. Wolfe represents himself. PRRD is represented by its “corporate officer”. For the reasons set out below, I refuse to resolve this dispute.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute’s parties that will likely continue after the CRT process has ended.
5. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.
6. Section 42 of the CRTA says the CRT 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 CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.

ISSUES

8. The issues in this dispute are:
 - a. Does the CRT have jurisdiction over Mr. Wolfe's claims?
 - b. If so, is Mr. Wolfe entitled to some or all of the \$4,011.40 claimed?

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Mr. Wolfe must prove his claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' evidence and submissions, but only refer to what is necessary to explain my decision.
10. As noted, Mr. Wolfe owns a property in the PRRD, which is a regional district established under the LGA.
11. Mr. Wolfe's submissions are largely questions he asks about the evidence he submitted, such as copies of bylaws and correspondence with PRRD. He concludes by saying he believes the evidence shows PRRD has overcharged him and others.
12. PRRD says the applicable bylaws are:
 - a. The Friesen Subdivision and Area Sewage Collection Service Establishment Bylaw No. 1609, 2005
 - b. The Friesen Subdivision Specified Area Sewer User Rates Bylaw No. 2010, 2012
 - c. City of Dawson Creek Fees and Charges Bylaw 3932, 2007

13. PRRD says these bylaws authorize it to provide the water and sewer services and set out how the costs will be recovered. PRRD says the fees it charged Mr. Wolfe were authorized by the bylaws.
14. The CRT's small claims jurisdiction includes claims about debt or damages as set out in section 118(1)(a) of the CRTA. The jurisdictional provisions are functionally identical to those applicable to the BC Provincial Court under the *Small Claims Act*. Several decisions from that court have considered the court's jurisdiction in the context of claims that local governments acted contrary to their bylaws. Those decisions are summarized in *Sawatzky v. City of Abbotsford*, 2019 BCPC 255.
15. In short, the BC Provincial Court has consistently held that claims to reverse penalties, costs, fees and interest charged by local governments are not claims for debt or damages. Instead, they are claims requesting declarations (that the local government acted outside of the authority of its bylaws), or injunctions (an order that a party do or not do something). Like the BC Provincial Court, the CRT cannot make declaratory or injunctive orders in small claims disputes. I find this applies to Mr. Wolfe's claim for reversal of a user fee and parcel taxes.
16. In his submissions, Mr. Wolfe clarifies and expands upon his requested remedies. He says he wants the PRRD to follow its bylaws, to charge him a certain rate, to use certain records in determining the charges, and to return user fees he paid to PRRD. These are all injunctive orders, which the CRT does not have jurisdiction to make in small claims disputes.
17. In addition, in *Sawatzky*, the court found that where there is an allegation that the defendant city improperly exercised its statutory power to enforce its bylaws, the only remedy available at law was judicial review under the *Judicial Review Procedure Act*. In other words, a claim that requires a determination of whether a local government acted properly in interpreting and applying its bylaw must be heard by the BC Supreme Court.

18. I find that to decide Mr. Wolfe's claim, I would have to determine whether the PRRD correctly interpreted and applied its bylaws. That means the claim must be heard by the BC Supreme Court and is not within the CRT's jurisdiction.

19. Under section 10(1) of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. I agree with the reasoning in *Sawatzky* and the decisions summarized in *Sawatzky*. I find Mr. Wolfe is seeking declaratory or injunctive relief that is outside the CRT's jurisdiction. I therefore refuse to resolve this dispute.

ORDER

20. I refuse to resolve this dispute under section 10(1) of the CRTA.

Micah Carmody, Tribunal Member