



Civil Resolution Tribunal

Date Issued: December 12, 2022

File: SC-2022-002679

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Chen v. Singh*, 2022 BCCRT 1332

BETWEEN:

WEIJIE CHEN

APPLICANT

AND:

DAMANJOT SINGH

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about a tenant's obligation to reimburse a landlord for fines owing to a strata corporation.

2. The respondent, Damanjot Singh, rented a strata lot apartment from the applicant, Weijie Chen. Mr. Chen says the strata corporation levied fines and charges against his strata lot that Mr. Singh is responsible for paying under the parties' residential tenancy agreement. In his dispute application Mr. Chen claimed reimbursement of \$2,575 but increased that amount to \$4,199.62 in his submissions.
3. Mr. Singh disputes most of the fines. He disputes smoking, drinking, or causing any noise or nuisance. Mr. Singh also says the strata manager agreed not to fine him for any parking bylaw violations but did so anyway. Mr. Singh also says Mr. Chen kept his \$925 damage deposit, which he says should cover any fines Mr. Singh is responsible for.
4. Both parties are self-represented.

JURISDICTION AND PROCEDURE

5. 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.
6. 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.
7. 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.

8. 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.

PRELIMINARY ISSUES

Residential Tenancy Branch Jurisdiction

9. Section 58(1) of the *Residential Tenancy Act* (RTA) says the Residential Tenancy Branch has exclusive jurisdiction over landlord and tenant disputes regarding:
 - a. Rights and obligations under the RTA, or
 - b. Rights and obligations under a tenancy agreement that:
 - i. Are required or prohibited under the RTA,
 - ii. Relate to the tenant's use, occupation or maintenance of the rental unit,
or
 - iii. Relate to the use of common areas or services or facilities.
10. The RTA does not address strata corporation fines, charges, or fees. I further find any obligation for Mr. Singh to pay such charges arises from his contractual obligation to Mr. Chen, rather than his use, occupation or maintenance of the rental unit, or the common areas, services or facilities. So, I find Mr. Chen's claim for payment of the strata's fines and charges does not fall within the RTB's exclusive jurisdiction.
11. Section 38 of the RTA addresses return of security and pet damage deposits. I find the RTB has exclusive jurisdiction over disputes about deposit returns. So, I find I do not have jurisdiction to consider the parties' arguments about whether Mr. Chen correctly retained Mr. Singh's \$925 deposit to pay for cleaning costs and partly to pay for strata fines and charges.

CRT Jurisdiction

12. Section 1(2) of the CRTA says that, if a claim may be fall under either the CRT's small claims jurisdiction or another jurisdiction, the claim must be decided under the other jurisdiction.
13. Under section 131(1) of the SPA, a strata corporation may fine a tenant and then collect the fine from either the tenant or landlord. SPA section 131(2) says that, if a landlord pays the tenant's fines, then the tenant owes that amount to the landlord. However, I find SPA section 131 does not apply here. This is because the evidence before me does not show that the strata fined Mr. Singh directly. Further, I find SPA section 131 does not apply to the move in and move out charges on Mr. Chen's strata lot ledger that Mr. Chen says Mr. Singh is responsible for, which I discuss below.
14. As SPA section 131 does not apply here, I find this contract dispute falls within the CRT's small claims jurisdiction.

ISSUE

15. The issue in this dispute is whether Mr. Singh must pay Mr. Chen for any of the levied strata fines and charges and, if so, how much?

EVIDENCE AND ANALYSIS

16. In a civil proceeding like this one the applicant, Mr. Chen, must prove his claim on a balance of probabilities (meaning "more likely than not"). I have read all the parties' submissions and weighed the evidence, but only refer to that necessary to explain my decision.
17. The parties signed a residential tenancy agreement dated January 25, 2021. The agreement names 2 other occupants in the strata lot which I infer were Mr. Singh's roommates. Based on the agreement, and the parties' April 1, 2022 signed "Condition Inspection Report", I find Mr. Singh moved into Mr. Chen's strata lot around January 29, 2021 and moved out on April 1, 2022.

18. Clause 35 of the residential tenancy agreement is entitled “Strata Fines, Fees and Charges”. It requires the tenant (Mr. Singh) to pay the strata for “any charges implied against the residential rental by the tenant or guests during the term of the tenancy”. It also requires the tenant to arrange and attend any meetings or communications needed to resolve the matter, if the tenant disputes any fines, fees or charges imposed by the strata.
19. Clause 36 is entitled “Additional Terms”. Clause 36(a) says the tenant must pay any move in and move out fees charged by the strata. Clause 36(c) requires the tenant to comply with the strata’s bylaws at all times and says that any fines levied on the owner’s strata lot account, due to the tenant’s bylaw violations, will be charged back to the tenant.
20. Together, I find clauses 35 and 36(c) mean that, if Mr. Singh or his guests violate the strata’s bylaws, Mr. Singh must pay any resulting strata fines. I do not find clause 35 requires Mr. Singh to pay all charges, fees, or fines levied against the strata lot for any reason during his tenancy period, as that would mean Mr. Singh would be responsible for paying Mr. Chen’s strata fees. I find this cannot have been the parties’ intentions, as Mr. Chen is responsible for paying his strata fees under SPA section 99. As explained below, I find Mr. Singh must pay some of the charges and fines levied, but not all of them.
21. A May 13, 2022 Statement of Account shows that Mr. Chen owed \$4,199.62 in outstanding strata fees, fines and charges.
22. My review of the strata lot ledger shows the strata levied a \$200 fine for each of 5 parking bylaw violations on January 17, 2022. The strata manager’s emails to both Mr. Chen and Mr. Singh include photos of 3 different vehicles in the visitor parking lot and another owner’s parking spot over several December 2021 and January 2022 dates. The strata manager said those vehicles were associated to the rental unit, which Mr. Singh does not dispute in his emails to the strata manager, or in this dispute.

23. Mr. Singh did not dispute the parking bylaw contraventions in his emails to the strata manager, or in this dispute. Rather, Mr. Singh says he and his guests used the visitor parking lot for only 1 to 2 hours or for emergencies, and that parking there was not a serious offence.
24. Mr. Singh says that the strata corporation agreed not to fine him for his parking bylaw violations but did so anyway. Mr. Singh's communications with the strata manager show the strata agreed not to fine him for parking violations that occurred before December 1, 2021, which I address below. I find Mr. Singh's agreement with the strata is only about these earlier violations and not the January 2022 violations.
25. On balance, I find the \$1,000 in parking bylaw fines levied on January 17, 2022 resulted from Mr. Singh or his guests' parking bylaw violations. So, I find Mr. Singh must pay those fines.
26. The ledger also shows the strata levied 7 fines of \$200 each on December 1, 2021, for smoking, noise, parking, and failing to wait for the parkade gate. Neither party submitted any bylaw contravention warnings or fine letters from the strata setting out the specifics of these alleged bylaw contraventions. Mr. Singh submitted a May 12, 2021 email where he disputes causing any noise on "that night" due to 2 occupants working and 1 having been asleep. In an undated email, Mr. Chen's rental agent wrote the strata manager about 7 bylaw violation letters just received. The rental agent explained that Mr. Singh had responded to the strata about the alleged violations, that he and the occupants do not smoke, did not make any nighttime noise, and that the Mercedes vehicle was not associated with their apartment. I find it likely this email relates to the 7 fines levied by the strata on December 1, 2021.
27. In his submissions, Mr. Singh repeated that he and his roommates do not smoke but that their neighbours smoked from the neighbours' balcony. Mr. Singh further denied making any nighttime noise or any connection with the Mercedes that allegedly violated the strata's parking bylaws. Given this, I find Mr. Chen has not proven that the December 1, 2021 \$1,400 in fines is due to bylaw violations by Mr. Singh or his

tenants. So, I find Mr. Singh is not required to pay those fines under the parties' residential tenancy agreement.

28. I find Mr. Singh is not responsible for paying a \$200 noise bylaw fine levied on January 28, 2019, because I find he was not living in the strata lot at the time. I also find he is not responsible for paying a \$200 parking fine levied on August 9, 2021 as there is no evidence or explanation about when the bylaw was violated or how. So, I find Mr. Chen has not proven these fines resulted from Mr. Singh or his guests' bylaw violations.
29. On March 16, 2022, the strata warned Mr. Chen that a dog associated with the rental unit was off leash and defecated on common property, contrary to the strata's bylaws. As Mr. Singh did not dispute this alleged contravention, and as this occurred while Mr. Singh was living in the unit, I find he is responsible to pay the \$400 fine charged by the strata on March 15, 2022 for violating the pet bylaw and the common property use bylaw.
30. I also find Mr. Singh is required to pay the \$200 moving fees charged to the strata lot on February 10, 2021, under clause 36(a) of the residential tenancy agreement.
31. I find the remaining \$799.62 balance on the strata lot ledger is made up of a December 1, 2021 exterior painting special levy contribution, as well as recurring fines and interest charges for non-payment of that levy. I find Mr. Singh is not responsible for paying these amounts under the residential tenancy agreement.
32. In total, I find Mr. Singh is responsible for paying \$1,600 of the fines charged to the strata lot. As I have found Mr. Singh is responsible for paying less than the \$2,575 initially claimed by Mr. Chen, I find I do not need to address any procedural fairness argument about Mr. Chen's increased damages amount in his submissions.
33. Mr. Chen says he paid the outstanding strata lot ledger balance. He submitted a seller's statement of adjustments he signed, showing that the \$4,199.62 strata lot ledger balance would be paid out of Mr. Chen's sale proceeds on the May 16, 2022 completion date for the strata lot sale. Based on this, I am satisfied that Mr. Chen

paid the outstanding strata lot ledger balance. So, I order Mr. Singh to pay Mr. Chen \$1,600 for the fines I find Mr. Singh is responsible for paying.

34. Mr. Chen is entitled to pre-judgment interest on the \$1,600 in fines and charges from the date he paid the outstanding strata lot ledger balance (May 16, 2022) to the date of this decision. This equals \$13.20.
35. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Mr. Chen was only partly successful in his claim, I find he is entitled to reimbursement of \$62.50, which is half his paid CRT fees. Although partly successful, Mr. Singh paid no CRT fees and claimed no dispute-related expenses.

ORDERS

36. Within 30 days of the date of this order, I order Mr. Singh to pay Mr. Chen a total of \$1,675.70, broken down as follows:
 - a. \$1,600 in damages,
 - b. \$13.20 in pre-judgment interest under the *Court Order Interest Act*, and
 - c. \$62.50 in CRT fees.
37. Mr. Chen is entitled to post-judgment interest, as applicable.

38. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

Sherelle Goodwin, Tribunal Member