



Civil Resolution Tribunal

Date Issued: October 19, 2023

File: SC-2022-009139

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Yan v. Porte Homes (HQ) Ltd.*, 2023 BCCRT 894

BETWEEN:

DAJING YAN

APPLICANT

AND:

PORTE HOMES (HQ) LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sarah Orr

INTRODUCTION

1. This is a dispute about a condo flood. The applicant, Dajing Yan, owns a strata lot in a building built by the respondent, Porte Homes (HQ) Ltd. (Porte). On December 30, 2021, a sprinkler pipe above Mr. Yan's bedroom ceiling burst causing his strata lot to flood.

2. Mr. Yan says the flood damaged his furniture and belongings and required him to rent a home elsewhere for 14 months while his strata lot was repaired. He says the flood was caused by a defective sprinkler pipe Porte installed when it built the building. He claims \$5,000 for the cost of replacing the damaged furniture, rent while he and his family were displaced, moving and storage expenses, and damages to his and his family's mental and physical health from the incident.
3. Porte denies that the sprinkler pipe was defective, and says it burst because of unusually cold outside temperatures. Porte says it is not responsible for the burst pipe or the damage to Mr. Yan's strata lot or personal property. Porte says it does not owe Mr. Yan anything.
4. Mr. Yan is self-represented, and Porte is represented by an employee.

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.
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.

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.
9. Throughout his submissions Mr. Yan expresses concern about what would have happened had he or one of his family members been in the bedroom when the flood occurred. Luckily, Mr. Yan says his son was the only person in the strata lot at the time of the flood, and he was uninjured. Mr. Yan does not claim any remedy related to any personal injuries caused by the flood, so I decline to address this further in this decision.

ISSUE

10. The issue in this dispute is whether Porte installed a defective sprinkler pipe in the ceiling above Mr. Yan's strata lot, and if so, whether Mr. Yan is entitled to \$5,000 in damages.

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, as the applicant Mr. Yan must prove his claims on a balance of probabilities, which means more likely than not. I have read all the parties' evidence and submissions but refer only to what I find relevant to explain my decision. For the following reasons, I dismiss Mr. Yan's claims.
12. Mr. Yan and his family moved into his strata lot in March 2020. He is the strata lot's first owner, and he and his family are its first occupants. When the flood occurred on December 30, 2021, Mr. Yan did not have home insurance.
13. Mr. Yan says Porte is responsible for the flood because it installed a defective sprinkler pipe when it built the building. Porte denies that the pipe was defective. It says municipal authorities and the mechanical engineer of record for the project inspected the sprinkler line multiple times during construction to ensure it met BC Building Code requirements. Porte says the pipe burst because the outside

temperature at the time of the flood was approximately 10 to 15 degrees Celsius below the annual average temperature. Porte says this was an “act of nature” which is not covered under the new home warranty.

14. Mr. Yan does not dispute that Porte built the building to BC Building Code or that the temperatures were unseasonably cold prior to the pipe bursting. However, he says that since the sprinkler pipe above his ceiling was the only pipe that burst in the building during the cold temperatures, this means it was defective.
15. I find that whether Porte installed a defective sprinkler pipe is beyond common knowledge, and expert evidence is required (see *Bergen v. Guliker*, 2015 BCCA 283). Mr. Yan says that in early January 2022, a plumber authorized by his strata corporation replaced the burst water pipe in the ceiling above his strata lot. He says the plumber told his son that the burst pipe was “chipped and chopped” before it burst, implying that it was defective.
16. However, Mr. Yan did not provide a statement from either his son or the plumber. This means the plumber’s evidence about the burst pipe is double hearsay. While the CRT may accept hearsay evidence in some circumstances, I find I cannot accept the plumber’s double hearsay evidence here because I have no way of verifying its reliability. The only other evidence Mr. Yan submitted to show the pipe was defective is a photo his son took in early January 2022 that appears to show small chunks or dings out of the outside of the pipe. However, I find it is not obvious from this photo that these marks were present before the pipe burst, or that they rendered the pipe defective. Without more, I find Mr. Yan has failed to prove that the burst sprinkler pipe was defective.
17. Even if Mr. Yan could prove that Porte installed a defective sprinkler pipe, which he has not, I find he has failed to prove he incurred damages. He claims \$1,500 for the cost of replacing a bed and mattress that he says were damaged in the flood, but he provided only a photo showing a broken bed frame, and no receipt or other evidence of its replacement cost. Mr. Yan also provided no evidence of the other costs he says

he incurred, or of the alleged mental distress or physical deterioration of health he says his family has suffered from the incident. I dismiss Mr. Yan's claim.

18. 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. Since Mr. Yan was unsuccessful, I find he is not entitled to reimbursement of his CRT fees. Neither party claimed any dispute-related expenses.

ORDER

19. I dismiss Mr. Yan's claims and this dispute.

Sarah Orr, Tribunal Member