



Civil Resolution Tribunal

Date Issued: May 21, 2024

File: SC-2023-003711

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Kimmel v. Lowres*, 2024 BCCRT 467

BETWEEN:

AL KIMMEL

APPLICANT

AND:

DOREEN LOWRES

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Nav Shukla

INTRODUCTION

1. The applicant, Al Kimmel, and the respondent, Doreen Lowres, each own a strata lot in the strata corporation, The Owners, Strata Plan VIS 3901 (strata). The strata is not a named party in this dispute. The applicant says the respondent agreed to personally pay them for work they did related to the strata's legal disputes. The applicant claims \$3,262.50 from the respondent for this work.

2. The respondent denies that she asked the applicant to do any work on her personal behalf. She further says that the written resolution from the strata's April 26, 2022 special general meeting (April 2022 SGM) that the applicant relies on is not valid. I infer the respondent asks that I dismiss the applicant's claims.
3. Both parties are self-represented.

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). CRTA section 2 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. CRTA section 39 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 and that an oral hearing is not necessary.
6. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

ISSUE

7. The issue in dispute is this whether the respondent must pay the applicant the claimed \$3,262.50 for the work the applicant did related to the strata's legal disputes.

EVIDENCE AND ANALYSIS

8. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
9. The strata is a bare land strata with 4 strata lots. As noted above, the parties each own a strata lot. At the relevant time, the applicant was the strata council president and the respondent was the strata council treasurer. The applicant says that starting in 2016, the respondent and the other strata lot owners asked the applicant to perform "legal related work" over and above the applicant's duties as strata council president. The applicant says that at the strata's June 2, 2021 annual general meeting, the owners passed a resolution agreeing to compensate the applicant for this work at \$50 an hour. In a different CRT dispute involving the strata, the CRT found this resolution was invalid (see *Sandhu v. The Owners, Strata Plan VIS 3901*, 2022 BCCRT 301).
10. As a result, the applicant says the strata gave notice of the April 2022 SGM to properly pass a resolution to compensate the applicant \$50 an hour for their legal related work. The evidence shows the resolution was voted on and passed by 3/4 of the owners at the April 2022 SGM. The resolution said that the strata would pay the applicant \$50 per hour for all work the applicant has performed for the strata over and above the applicant's duties as strata council president, including but not limited to issues relating to an easement lawsuit, appeal, and legal billing issues.
11. The applicant relies on this April 2022 resolution as the basis for their claim against the respondent. The applicant says that the strata council (consisting of the applicant, the respondent, and another owner, MW), agreed that each council member would pay their proportionate share for the applicant's legal related work directly to the applicant. So, the applicant argues that the respondent owes them personally for her proportionate share, which the applicant says is the claimed \$3,262.50.

12. The applicant suggests that the respondent acknowledged her personal liability for the claimed \$3,262.50 in a January 26, 2023 email the respondent sent in response to the applicant's request for payment. In this email, the respondent said that she would pay the applicant for gardening and out-of-pocket expenses (that the applicant had invoiced the strata for separately) from strata funds but that "the extra money WE owe you will have to wait until we sell our houses" (reproduced as written). While I accept that the respondent appears to acknowledge in this email that additional money is owed to the applicant, I do not find that this email establishes that the respondent agreed she was personally liable to pay the applicant for their legal related work.
13. Rather, I find the only evidence of any potential agreement is the April 2022 resolution, which as noted above, the respondent argues is invalid. I find it unnecessary to determine the resolution's validity because even if it is valid, at most I find it establishes that the strata (not the respondent), agreed to pay the applicant \$50 an hour for any work they did over and above their duty as strata council president. *Strata Property Act* section 166(3)(c) says that other than for judgments obtained against a strata corporation, an owner has no personal liability, in the owner's capacity as an owner, for any loss or damage arising from any contracts made by a strata corporation. So, to the extent the applicant argues that the April 2022 resolution was valid and confirmed a contract between the applicant and the strata for their legal related work, the respondent cannot be found personally liable to the applicant for any amounts owed under that contract.
14. In conclusion, I find the applicant has failed to prove that the respondent personally owes them the claimed \$3,262.50 and I dismiss the applicant's claim. Nothing in this decision prevents the applicant from filing a dispute against the strata for the claimed amounts, subject to any applicable limitation period.
15. Under CRTA section 49 and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As the applicant was unsuccessful, I dismiss their claim for

reimbursement of their paid CRT fees. The respondent did not pay any fees and neither party claims any dispute-related expenses, so I award none.

ORDER

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

Nav Shukla, Tribunal Member