



# Civil Resolution Tribunal

Date Issued: July 10, 2025

File: SC-2024-004485

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Mackay v. Turner*, 2025 BCCRT 940

BETWEEN:

CASEY SCOTT MACKAY

**APPLICANT**

AND:

RYAN MICHAEL TURNER

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Andrea Ritchie, Vice Chair

## INTRODUCTION

1. This small claims dispute is about water damage in a strata building. The applicant, Casey Scott Mackay, owns a strata lot (unit 810) directly below a strata lot (unit 910) previously owned by the respondent, Ryan Michael Turner. In 2022, water leaked from unit 910 into unit 810. Mr. Mackay says Mr. Turner is responsible for the repairs and claims \$2,619.29 for repairing the damage and his time coordinating repairs. Mr. Turner denies responsibility.

2. Both parties are self-represented.

## **JURISDICTION AND PROCEDURE**

3. 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.
4. The CRT conducts most hearings by written submissions, but has discretion to decide the hearing's format, including by telephone or videoconference. No party requested an oral hearing, and I find I am able to make a decision on the written record before me. So, I decided to hear this dispute through written submissions.
5. Section 42 of the CRTA says that the CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.
6. 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.

## **ISSUE**

7. The issue in this dispute is whether Mr. Turner is responsible for Mr. Mackay's claimed damages resulting from the water leak.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, the applicant Mr. Mackay must prove his claims on a balance of probabilities (meaning "more likely than not"). While I have read all of the

parties' submitted evidence and arguments, I have only addressed those necessary to explain my decision.

9. As noted, the parties formerly owned strata lots directly above one another. Mr. Turner has since sold unit 910. On December 2, 2022, water from unit 910 leaked into unit 810. At the time, both units were tenanted.
10. On December 2, 2022, Mr. Mackay's tenant noticed water leaking into unit 810's bathroom. He notified building security, who investigated and contacted Mr. Turner's tenant. Watt HVAC attended and repaired a damaged bathtub cartridge and leaking tub spout. This fixed the leak.
11. Mr. Mackay claims against Mr. Turner for the water damage to unit 810. He claims a total of \$2,619.29 for repairs and his time coordinating repairs. He did not provide any breakdown of his alleged time spent coordinating repairs. Invoices in evidence show he paid a total of \$2,363.79 for bathroom repairs, so I infer the remaining \$255.50 is for his time.
12. In small claims disputes involving water leaks in a strata building, an applicant owner must show that the respondent owner is liable in either negligence or nuisance, or further to an applicable bylaw. Mr. Mackay argues Mr. Turner is liable pursuant to the strata's bylaws.
13. Bylaw 17.2.1 says that if an owner is responsible for any loss or damage to a strata lot, common property, limited common property, or common assets, then the owner must indemnify the strata corporation or a separate section for the repair expenses. Bylaw 17.2.2 clarifies bylaw 17.2.1, and says an owner is responsible for any loss or damage, including anything arising from bathtubs, among other things.
14. While Mr. Mackay argues this bylaw requires Mr. Turner to reimburse him for damage repairs, I disagree. Consistent with the modern approach to contract and statute interpretation, read as a whole and in context, bylaw 17.2 means owners are responsible to the strata corporation for damage repairs. It does not impose strict

liability between neighbouring owners for damage. So, I find the bylaws do not assist Mr. Mackay.

15. I next consider whether Mr. Turner is liable in negligence or nuisance.
16. To succeed in negligence, Mr. Mackay must show that Mr. Turner owed him a duty of care, that Mr. Turner breached the applicable standard of care, and that Mr. Mackay experienced a loss caused by that breach (see: *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27). The standard of care is that of a reasonable condo owner. Mr. Turner says the strata required that all bathtubs be inspected in 2020, and that his was, and no issues were noted. Mr. Mackay says that inspection was nearly 2 years before the 2022 leak, and the spout and cartridge could have deteriorated since then, leading to the leak. While that may be the case, there is no evidence before me that Mr. Turner knew, or ought to have known, that unit 910's bathtub cartridge or spout were leaking. There is also no evidence Mr. Turner or his tenant caused the damage or the leak.
17. The evidence shows that Mr. Turner had the bathtub issues repaired within days of being notified of the leak. I find Mr. Mackay has not proved Mr. Turner's actions fell below those of a reasonable condo owner. So, I find he has not proved Mr. Turner was negligent.
18. To succeed in nuisance, Mr. Mackay must show a substantial and unreasonable interference with the use and enjoyment of his property. Because Mr. Turner did not create the nuisance, Mr. Mackay must show Mr. Turner knew or ought to have known about it and failed to take reasonable steps to mitigate it (see: *Sadowick v. British Columbia*, 2019 BCSC 1249 at paragraphs 89-92). For the same reasons above, I find Mr. Turner acted reasonably.
19. As Mr. Mackay has not established Mr. Turner is liable in negligence, nuisance, or under a strata bylaw, I dismiss his claim for damages.
20. Under section 49 of the CRTA, and the CRT rules, a successful party is generally entitled to the recovery of their tribunal fees and dispute-related expenses. As Mr.

Mackay was unsuccessful, I dismiss his claim for reimbursement of tribunal fees.  
Neither party claimed dispute-related expenses.

## **ORDER**

21. Mr. Mackay's claims are dismissed.

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Andrea Ritchie, Vice Chair