



# Civil Resolution Tribunal

Date Issued: July 11, 2025

File: SC-2024-003860

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wang v. Fortin*, 2025 BCCRT 941

B E T W E E N :

ANQUAN WANG

**APPLICANT**

A N D :

GILLES FORTIN and DARLENE MACLEAN

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Deanna Rivers

## INTRODUCTION

1. This is a dispute about noise from upstairs neighbours. The applicant, Anquan Wang, lives in strata lot 23. The respondents, Gilles Fortin and Darlene MacLean, live directly above him in strata lot 44. Mr. Wang says the respondents have been making persistent and disruptive noise since October 2022, when he moved in. He says the noise disrupts his peace and quiet, disturbs his sleep, and causes him

anxiety. He claims \$4,000 in damages for nuisance, and for reimbursement of his legal fees. Mr. Wang represents himself.

2. The respondents say that they took steps to reduce noise from their unit. They deny making any noise that would be a nuisance. The respondents each represent themselves.
3. I dismiss Mr. Wang's claim for the following reasons.

## **JURISDICTION AND PROCEDURE**

4. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims brought under section 118 of the Civil Resolution Tribunal Act (CRTA). 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. These are the CRT's formal written reasons.
5. CRTA section 39 says the CRT has discretion to decide the hearing's format, including by writing, telephone, videoconferencing, email, or a combination of these. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. I find that an oral hearing is not necessary in the interests of justice.
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.
7. In submissions, Mr. Wang makes allegations about the parties' interactions, the strata corporation's enforcement of bylaws, and other alleged bylaw infringements. These issues were not set out in the Dispute Notice. So, I find these issues are not before me and I make no findings about them.

## **ISSUES**

8. The issue in this dispute is whether the respondents committed a nuisance against Mr. Wang, and if so, what is the appropriate remedy.

## **EVIDENCE AND ANALYSIS**

9. In a civil proceeding like this one, Mr. Wang must prove his claim on a balance of probabilities. This means that the relevant evidence must show that the claim has been proven to be more likely than not. If Mr. Wang does not prove the elements of the claim on the balance of probabilities, the claim will be dismissed.
10. I have considered all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to explain my decision.
11. For people living in a strata, a nuisance is a substantial and unreasonable interference with an owner's use and enjoyment of their property in the circumstances.<sup>1</sup> The test for nuisance depends on factors such as its nature, severity, duration, and frequency.<sup>2</sup> The test is objective and is measured by whether a reasonable person occupying the premises would find the noise excessive or unreasonable.<sup>3</sup> The objective person requirement guards against those with abnormal sensitivity or unreasonable expectations.<sup>4</sup>
12. Mr. Wang bought his strata lot in October 2022. He says the respondents have made persistent and disruptive noise since then. He says the noise includes footsteps, hard heeled shoes, items dropping and bouncing, loud banging noises, chopping noises, loud scraping and vibrating from the respondents' vacuum, and furniture being dragged and moved. He says it occurs throughout the day, as early as 4:30 a.m.. He says the noise causes him a loss of productivity, difficulty concentrating, and a general decline in his mental and physical health.
13. The parties agree that in October 2022, Mr. Wang posted a sticky note on the respondents' door saying he could hear them opening and closing doors or

drawers. In November 2022, the respondents had 2 verbal altercations with the applicant about noise.

14. The respondents say that after they received the October note, they put silencing pads on their drawers and on their furniture legs. A photograph confirms the silencing pads on the patio door and some drawers.
15. Mr. Wang's next complained about noise from the respondents' unit to the strata corporation in early 2024. The respondents say they were unaware of any ongoing concerns until they received the strata's letter in June 2024.
16. Mr. Wang provided a log of alleged noise disturbances from January 29 to May 8, and from June 3 to June 13, 2024. The log notes such noises as footsteps, item dropped on the floor, an alarm clock, a vacuum cleaner, a garbage disposal, creaking sounds, furniture moving, and a chopping or hammering sound. Mr. Fortin provided activity logs from May 13 to June 22, 2024. Where those logs overlap, Mr. Wang's noise log descriptions relate to the times the respondents were getting up and ready for work, showering, doing dishes, and watching TV.
17. I find Mr. Wang's noise log does not identify any noises where the nature or severity of the noise would constitute a nuisance. The noises identified are usual living sounds, and represent activities the respondents cannot reasonably stop doing in their daily lives.
18. Mr. Wang provided 62 audio-video recordings. Many of the recordings include a "sound meter" app from his phone. Although the videos show Mr. Wang's rooms and ceiling, it is unclear where the noise is coming from. I listened to each recording. By setting my speaker volume to maximum, I hear walking, a vacuum running, chopping sounds, what may be a garburator or other small appliance, some thumping and banging, and what sounds like a window or sliding glass door opening and closing. The sound meter readings show an average of 26 to 38 decibels, with occasional spikes in the 50 decibels and low 60 decibels range. Two

2 recordings had a spike to the 70 decibels range. The sound of a person clearing their throat registered 44 decibels on the app.

19. Mr. Wang did not explain the significance of the decibel readings, and did not provide any evidence about what decibel reading is unreasonable. He did not provide any evidence for me to assess the recorded noise with reference to a “reasonable person.” Previous CRT decisions<sup>5</sup> have considered the World Health Organization’s Guidelines for Community Noise (WHO Guidelines)<sup>6</sup>. WHO Guidelines suggest that the sound level of interfering noise should not exceed 35 decibels, with the meter set at “fast.” However, those guidelines are for continuous noise.
20. None of the noises recorded by Mr. Wang are continuous. They represent a short sample of sounds at specific times over a longer period. Further, even when there were no audible noises in the recordings, the decibel readings on the app showed in the mid-20 decibels range. So, I find the decibel readings are unreliable, and put no weight on them. I also find that even if the decibel readings are accurate, they do not display an unreasonable noise.
21. While I can hear noises on the recordings, as I set out above, I find them to be reasonable daily living noises expected in community living.
22. The respondents say they have lived in their strata lot for 18 years, and this is the first time they have received a complaint about noise. They say they are in their 60s and work full-time. They say they do not wear shoes in the suite, and that they do deliberately make noise.
23. A statement from TM, the previous occupant of Mr. Wang’s unit, says she lived below the respondents for 15 years, and did not hear noise except during hockey games. TM also notes that Mr. Wang’s unit is directly opposite the elevator, which may cause noise. A statement from ET, the respondents’ current upstairs neighbour, says he has lived above the respondents for 18 years, and has not heard any loud music or parties, and he has not been disturbed by noise from them.

I place considerable weight on TM's and ET's statements, as they are not parties to this dispute, not related to the respondents, and, living above and below the respondents, would have been able to hear noises from the respondents' strata lot. I would expect the respondents' other neighbours to have noticed the noise if it were unreasonable.

24. I accept that Mr. Wang finds the noise from the respondents' unit to be disturbing. However, as is often noted in strata nuisance cases, a certain amount of give and take is necessary among neighbours.<sup>7</sup> I find that each of the noises Mr. Wang complains of, including running a vacuum, chopping food, walking, opening and closing doors and windows, and running small appliances, are usual and reasonable everyday living noises in a strata.
25. I find that Mr. Wang has not proved that the respondents' have created a nuisance.
26. I dismiss Mr. Wang's claim.
27. Under CRTA section 49 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. Wang was unsuccessful, I dismiss his claim for reimbursement of CRT fees.
28. Under CRT rule 9.5(3), the CRT will not order reimbursement of legal fees in small claims disputes except in extraordinary circumstances.<sup>8</sup> This was not a claim with extraordinary circumstances, and I dismiss Mr. Wang's claim for legal fees.

## **ORDER**

29. I dismiss Mr. Wang's claim.

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Deanna Rivers, Tribunal Member

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<sup>1</sup> *The Owners, Strata Plan LMS 1162 v. Triple P Enterprises Ltd.*, 2018 BCSC 1502.

<sup>2</sup> *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64.

<sup>3</sup> *Sauve v. McKeage et al.*, 2006 BCSC 781.

<sup>4</sup> *Sutherland v. Canada (Attorney General)*, 2001 BCSC 1024

<sup>5</sup> For example, *Abbrusci v. The Owners, Strata Plan BCS 2287*, BCCRT 1038, *Bhullar v. The Owners, Strata Plan EPS6340*, 2024 BCCRT 1201, *Hovhannisyan v. The Owners, Strata Plan NW 180*, 2025 BCCRT 282.

<sup>6</sup> Berglund, B., Lindvall, T., & Schwela, D. (1999). *Guidelines for community noise*. World Health Organization. <https://www.who.int/publications/i/item/a68672> accessed July 10, 2025.

<sup>7</sup> *Sauve*, paragraph 22-23, and *Chiang v. Yang*, 1999 BCPC 29 paragraph 39.

<sup>8</sup> *Voyer v. C.I.B.C.*, 1986 CanLII 1226 (BC SC).