



# Civil Resolution Tribunal

Date Issued: January 17, 2025

Files: IS-1-2024-013506 and IS-3-2024-013496

Type: Intimate Images

Category: Protection Order and Damages

Civil Resolution Tribunal

Indexed as: *KO v. ZHW*, 2025 BCCRT 78

## Publication Ban Applies

BETWEEN:

KO

**APPLICANT**

AND:

ZHW

**RESPONDENT(S)**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell, Vice Chair

## INTRODUCTION

1. The applicant KO says the respondent ZHW threatened to share her intimate images without her consent. The applicant asks the Civil Resolution Tribunal (CRT) for protection orders under section 5 of the *Intimate Images Protection Act* (IIPA). She also claims \$5,000 in damages under IIPA section 6.

2. The respondent denies that she took or threatened to share any intimate image of the applicant.
3. Both parties are adults and are self-represented.

## **JURISDICTION AND PROCEDURE**

4. These are the CRT's formal written reasons and order. The CRT has jurisdiction over applications for expedited intimate image protection orders under *Civil Resolution Tribunal Act* (CRTA), Part 10 Division 8, and under IIPA section 1 and 5. The CRT may order compensatory, aggravated, and punitive damages, up to the CRT's \$5,000 small claims monetary limit under CRTA section 118, and IIPA section 6.
5. CRTA section 39 says the CRT has discretion to decide the hearing's format, including whether it is an oral hearing or based on written materials. The CRT's mandate includes speed, efficiency, and proportionality. I find I can fairly make an expedited decision based on the written material before me.
6. CRTA section 42 says the CRT may accept as evidence information that it considers relevant and appropriate, even if it would not be admissible in court.
7. IIPA section 5(9) says that an "individual" must not be named in a "determination or order" under section 5 (applications for protection orders), or a related CRT decision, unless they are a respondent. Section 1 defines "applicant" as an "individual". I find the applicant is an "individual", so I have not named the applicant in this decision.
8. As discussed below, the parties live in shared accommodations. So, I find naming the respondent could potentially identify the applicant. For that reason, I have not named the respondent in this decision.
9. Under IIPA section 13, **I order a ban on publishing the applicant's and respondent's names or anything that would identify them.** I also order that the CRT's dispute file be sealed and only disclosed by order of the British Columbia

Supreme Court or the CRT. As the applicant is an adult, she may ask the CRT to cancel the publication ban order.

## **ISSUES**

10. The issues in this application are:

- a. Did the respondent threaten to share the applicant's intimate images without her consent?
- b. If so, is the applicant entitled to the requested protection orders?
- c. Is the applicant entitled to damages, and if so, how much?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, the applicant must prove her application on a balance of probabilities, which means more likely than not. I have read all of the parties' evidence and submissions, but I refer only to what is necessary to explain my decision.

12. To be entitled to protection orders or damages under the IIPA, the applicant must first prove the respondent shared or threatened to share an "intimate image" depicting the applicant, without the applicant's consent. IIPA section 1 defines "intimate image" as follows:

- a. It depicts or shows the applicant engaging in a sexual act, nude or nearly nude, or exposing their genitals, anal region, or breasts, and
- b. The applicant had a reasonable expectation of privacy at the time the image was recorded or livestreamed, and also when it was shared, if it was shared.

13. The definition of "intimate image" includes videos.

14. The applicant says the respondent is her landlord, and they live in shared accommodation. The parties' submissions indicate that they had a disagreement about whether the applicant was making noise at night, including noise in the bathroom or shower.
15. The applicant says the respondent took videos of the applicant while she was showering, to use as evidence in a potential future legal proceeding about the noise dispute.
16. The respondent admits to taking a video to use as evidence, but says the applicant was not in the shower. The respondent says the video shows the applicant in the bathroom brushing her teeth, while wearing clothes.
17. Based on the evidence before me, I find the applicant has not proved that the respondent took an intimate image of her, as defined in the IIPA. Neither party provided a copy of the video. I find the applicant has not proved that the video showed her engaging in a sexual act, nude or nearly nude, or exposing their genitals, anal region, or breasts, as required under IIPA section 1. There is no copy of the video, or other evidence, proving that is the case. The applicant has not said what body parts the video shows, and has not provided evidence to support her claim that the video is an intimate image under the IIPA.
18. In a January 1, 2025 email exchange with the respondent about the video, the applicant wrote that the video showed her "half naked". Without further evidence, I find this does not support the conclusion that the video showed the applicant "nude or nearly nude", or exposing her genitals, anal region, or breasts. I also find that this is not consistent with the applicant's submission to the CRT that the respondent recorded her showering, as one typically does not shower "half naked".
19. I also find the applicants has not proved that the respondent threatened to share the video. The respondent admitted she took the video to have as evidence for the future, but there is no indication that the respondent actually shared or threatened to share

the images with anyone, including to the Residential Tenancy Branch or another legal body.

20. For these reasons, I find the applicant has not proved that the video in question was an “intimate image” as defined in the IIPA. She has also not proved that the respondent threatened to share her intimate image contrary to the IIPA. I dismiss the applicant’s claims.
21. Under section 49 of the CRTA and the CRT rules, a successful party is entitled to reimbursement of their tribunal fees and dispute-related expenses. The respondent is the successful party and did not pay CRT fees or claim expenses, so I order no reimbursement.

## **ORDERS**

22. I dismiss the applicant’s claims.
23. **Under IIPA section 13, I order a ban on publishing the parties’ names or anything that would identify them.**
24. I order the dispute records sealed. Only the parties, their lawyers, and the CRT may have access to the dispute records. With the applicant’s consent, the CRT may share information from the dispute record with the Intimate Images Protection Service of the British Columbia Minister of Public Safety and Solicitor General.

25. This is a validated decision and order. 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 that court.

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Kate Campbell, Vice Chair