



Civil Resolution Tribunal

Date Issued: April 24, 2025

File: IS-3-2024-013196

Type: Intimate Images

Category: Damages

Civil Resolution Tribunal

Indexed as: *GW v. DM*, 2025 BCCRT 514

Publication Ban Applies

BETWEEN:

GW

APPLICANT

AND:

DM

RESPONDENT

REASONS FOR DECISION AND PROTECTION ORDER

Tribunal Member:

Andrea Ritchie, Vice Chair

INTRODUCTION

1. The applicant, whose initials are GW, says the respondent, whose initials are DM, shared his intimate image without his consent. The applicant claims \$5,000 in damages under section 6 of the *Intimate Images Protection Act* (IIPA).

2. The respondent denies the applicant is entitled to any damages.
3. The applicant is an adult and is self-represented. The respondent is represented by a lawyer, Emma Abdjalieva.
4. The applicant also applied for an intimate image protection order under IIPA section 5. I have issued a separate decision for that application. I did not publish the protection order decision because section 136.4(1)(c) of the *Civil Resolution Tribunal Act* (CRTA) exempts IIPA protection orders from the general requirement that the Civil Resolution Tribunal (CRT) publish all final decisions. As noted below, I adopt certain conclusions from that decision without repeating the details.

JURISDICTION AND PROCEDURE

5. These are the CRT's formal written reasons and order. The CRT has jurisdiction over this claim for damages under CRTA section 118. IIPA section 6 creates a statutory tort for the non-consensual sharing or threatened sharing of intimate images. Under the IIPA, the CRT may order compensatory, aggravated, and punitive damages, up to the CRT's \$5,000 small claims monetary limit.
6. 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. Neither party requested an oral hearing, and credibility is not particularly in issue. In the circumstances of this dispute, I find I can fairly make an expedited decision, including any necessary credibility findings, based on the evidence and written material before me.
7. 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.

Publication ban and sealing order

8. IIPA section 5(9) says that an "individual" must not be named in a "determination or order" under section 5 (protection order applications), 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, which I find is a decision related to a section 5 decision.

9. IIPA section 13 also requires me to order a publication ban on the applicant’s name or anything that would identify him. Under IIPA section 13(2), I must also order a publication ban on the individual respondent’s name or anything that would identify her, if there are reasons to protect her identity. Here, the parties are former romantic partners and co-workers, and I find that identifying DM may indirectly identify the applicant. So, **I order a ban on publishing the applicant’s and DM’s names or anything that would identify them.** Given the publication ban, I have anonymized the parties’ names in this decision. As the applicant is an adult, he may ask the CRT to cancel the publication ban order. 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.

ISSUES

10. The issue in this dispute is whether the applicant is entitled to damages, and if so, how much.

APPLICABLE LAW

11. In a civil proceeding like this one, the applicant must prove his application on a balance of probabilities, which means more likely than not.
12. To establish his claim for damages, the applicant must first prove the respondent shared or threatened to share an “intimate image” depicting him, without his consent. If the applicant does so, he must then prove he is entitled to the claimed damages.
13. The parties are co-workers and former romantic partners. During their relationship, the applicant sent the respondent a naked picture of himself that he previously took while at work at a public hospital. About a year later, someone made a complaint to

the applicant's employer about his alleged inappropriate conduct while at a clinical site. The applicant's employer conducted an investigation and received a copy of the applicant's naked picture. The applicant was suspended and given a work probation.

14. The applicant says the respondent had to have shared the image with his employer. He said only the respondent and another former romantic partner, LM, had copies of the image. LM is not a party to this dispute. DM generally denies the applicant's claims.
15. In my reasons for decision and protection order in IS-1-2024-013507, I found that although the image depicted the applicant fully nude and exposing his genitals, he did not have a reasonable expectation of privacy in the image, so it was not an "intimate image" as defined by the IIPA.
16. Specifically, I found that even if the applicant had a reasonable expectation of privacy at the time the image was created, despite being in a public place, there was no reasonable expectation of privacy when the image was shared. I found that it was not objectively reasonable for an employee to expect privacy over an intimate image taken at work, specifically when shared with that person's employer as part of an investigation into the employee's conduct. I adopt those same findings here.
17. So, because the image is not an "intimate image", the applicant has not proved he is entitled to any damages.
18. Even if the applicant had proved the image was an "intimate image", I still would not have awarded any damages, for two reasons.
19. First, the applicant admitted that he shared the photo with at least two people, the respondent and LM. While the applicant believes the respondent shared the image with his employer, he also suspects LM. As noted, the respondent generally denies the applicant's claims. Without more, I am unable to determine whether it was the respondent, LM, or some other person who shared the image with the applicant's employer.

20. Second, and most importantly, section 11 of the IIPA sets out defences available for respondents in an intimate images damages claim. Section 11(1)(b) says that a respondent is not liable if the distribution of the intimate image “was in the public interest and did not extend beyond what was in the public interest”. While the respondent did specifically refer to section 11(1)(b), I find it implicit in her submissions.
21. I find that no matter who shared the image with the applicant’s employer, it was in the public interest. The applicant says he took the image when he was alone, on a work break. He says his normal practice is to post a sign on the door saying “do not disturb” and that he draws the curtain. He says when he took the photo he placed a wooden door stopper in the door. He also says that because it was night shift, the room was unlikely to be used, that all the patients were “already hooked up” to their respective machines, and that on night shift there were minimal people on the unit compared to the day shift.
22. In contrast, the respondent argues the applicant took the image of himself and his genitals on a medical unit, at a public hospital, while on shift. She says any employee or individual could have accessed the room where the applicant took the photo. She says the applicant’s actions contravened several of their employer’s policies.
23. I find that the applicant’s actions in taking the photo in a public hospital could reasonably be interpreted as indecent exhibition in a public place, contrary to section 175 of the *Criminal Code*. So, I find that, if the respondent shared the image with the applicant’s employer, it was in the public interest, and she is not liable for damages pursuant to section 11(1)(b) of the IIPA. I find that there is no evidence DM shared the image with anyone else. For this reason, I dismiss the applicant’s damages claim.
24. 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. As the applicant

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

ORDERS

25. I dismiss the applicant's claims.
26. **Under IIPA section 13, I order a ban on publishing the parties' names or anything that would identify them.**
27. I order the dispute records sealed. Only the parties, their representatives, 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.
28. This is a validated decision and order. Under IIPA section 14, the CRT's order can be enforced through the British Columbia Supreme Court. Once filed, a CRT order has the same force and effect as an order of that court.

Andrea Ritchie, Vice Chair