



# Civil Resolution Tribunal

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Type: Intimate Images

Category: Damages

Civil Resolution Tribunal

Indexed as: *AQ v. BV*, 2025 BCCRT 689

## Publication Ban Applies

BETWEEN:

A.Q.

**APPLICANT**

AND:

B.V.

**RESPONDENT**

AND:

A.Q.

**RESPONDENT BY COUNTERCLAIM**

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## REASONS FOR DECISION

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Tribunal Member:

Eric Regehr, Vice Chair

## INTRODUCTION

1. The applicant, who I will call AQ, claims that the respondent, who I will call BV, shared intimate images of her without her consent. These are not either party's real initials. AQ claims \$5,000 in damages under section 6 of the *Intimate Images Protection Act* (IIPA). AQ is an adult and is self-represented. She resides in BC.
2. BV asks me to dismiss AQ's claims. They also allege that AQ shared an intimate image of them without their consent, and counterclaims for \$5,000. They are an adult and are self-represented. A friend represented them earlier in the CRT's proceedings.
3. AQ also applied for various intimate images protection orders under IIPA section 5. I have issued a separate decision for that application. I did not publish that 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 have adopted certain conclusions from that decision without repeating all the details. I did this to avoid identifying her.
4. BV did not request any protection orders. So, this is the only decision about their allegation that AQ shared their intimate image. I have limited my description of BV's counterclaim as much as possible. Again, this was to avoid identifying them.

## JURISDICTION AND PROCEDURE

5. These are the CRT's formal written reasons. The CRT has jurisdiction over this damages claim under CRTA section 118. IIPA section 6 creates a statutory tort for the non-consensual distribution or threatened distribution of intimate images. Under the IIPA, the CRT may order compensatory, aggravated, and punitive damages, up to the CRT's \$5,000 monetary limit under its small claims jurisdiction.
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. Under the *Intimate Images Protection Regulation* (IIPR), the CRT must consider the potential for an expedited intimate image protection order to mitigate harm. I find I can fairly make an expedited decision based on the written material.

7. CRTA section 42 says the CRT may accept as evidence any information that it considers relevant, necessary, and appropriate, whether or not it would be admissible in court.
8. IIPA section 5(9) says that an “individual” must not be named in a “determination or order” unless they are a respondent. Section 1 defines “applicant” as an “individual”. So, I have not named AQ in the style of cause (title page) above because I find this is a decision related to the protection order decision.
9. IIPA section 13(1) requires me to order a publication ban on AQ’s name or anything that would identify her. Section 13(3)(a) says that this publication ban may include all parties. I find this is appropriate here because BV’s identity might indirectly identify AQ, given the frequency with which they have engaged online. **I order a ban on publishing AQ’s or BV’s names or anything that would identify either of them.** AQ is an adult, so she can 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 BC Supreme Court or the CRT.

## ISSUES

10. The issues in this dispute are:
  - a. Is AQ entitled to damages?
  - b. Is BV entitled to damages?

## EVIDENCE AND ANALYSIS

11. In a civil claim such as this, AQ as the applicant must prove her claims on a balance of probabilities. This means more likely than not.
12. As I explained in my protection order decision, AQ alleged BV shared two intimate images of her without her consent. The definition of “intimate image” set out in IIPA section 1:
  - a. They depict or show AQ engaging in a sexual act, nude or nearly nude, or exposing her genitals, anal region, or breasts, and
  - b. The applicant had a reasonable expectation of privacy at the time the images were recorded, and also when they were shared.
13. The first image clearly met the first part of the above definition. BV also admitted to sharing it in a blog post. The more difficult question was about whether AQ had a reasonable expectation of privacy in the image when BV shared it. This is because she had posted it publicly on a major social networking site. AQ said this post was inadvertent, but I did not accept that evidence. I found that the post was intentional.
14. This engages a broader question about whether a person permanently loses their reasonable expectation of privacy of an image when they publicly post it online. On the one hand, one of the IIPA’s overriding principles is to promote individual autonomy over their intimate images with a view to reducing harm. This is the focus of AQ’s submissions. She points out that she is the subject of often vicious online harassment from multiple people, including BV, who frequently use the image as part of offensive posts. However, the structure of the definition of “intimate image” makes it clear that a reasonable expectation of privacy is a fundamental component of what images the IIPA protects. In other words, a person has no autonomy under the IIPA over images in which they have no reasonable expectation of privacy, no matter what harm they cause.

15. I considered IIPA section 2(b)(i), which says that a person does not lose their reasonable expectation of privacy in an intimate image only because they have distributed it. The use of the word “only” in that context means that the individual does not necessarily lose their reasonable expectation of privacy, but it leaves open the possibility that they may. In my view, this provision means that if an individual distributes an intimate image in one context, such as by texting it to a romantic partner, they do not lose their reasonable expectation of privacy in all contexts.
16. The IIPA protects an individual’s reasonable expectation of privacy, which might not necessarily reflect an individual’s subjective desire for privacy. I find that a reasonable person understands that by posting something broadly on the internet, such as in a publicly viewable social media post, they have functionally lost all control over it. They have offered it for the entire world to see. This is an action inconsistent with reasonably expecting privacy in the image in the future. I find that by posting an image in a public online place, an individual forfeits any reasonable expectation of privacy over that image. It does not matter how graphic the image is, how much they later regret posting it, or how upsetting it is to see it resurface.
17. So, I found that AQ had no reasonable expectation of privacy in the first image when BV shared it. It is therefore not an “intimate image”.
18. The second image also meets the first part of the definition. I dismissed her application for a protection order for several reasons. It is enough to say here that there was no evidence that BV had ever shared it or threatened to share it.
19. For those reasons, I dismiss her claim for damages.
20. In their counterclaim, BV provided evidence of several social media posts that include a photo of them nude. There is some evidence before me to suggest that the image was taken from a video that BV made public themselves. Based on my earlier reasoning, this would mean they had no reasonable expectation of privacy in it at the time it was shared. However, I decided not to ask for further evidence and submissions about this issue because BV has not proven it was AQ who shared the

image. The social media posts at issue are from an anonymous account. BV spent considerable effort providing circumstantial evidence they believe conclusively proves that AQ controlled that account. I reviewed and considered it all. At most, I find that BV has proven that the anonymous account engaged in similar online conduct to AQ's known social media profiles. But there are others involved in the parties' online feud. So, while I accept that it is possible that AQ shared the image, the evidence is far from establishing that it was her on a balance of probabilities.

21. I also note that BV alleges another person shared this image and seeks damages against that person. I cannot consider claims against people who are not parties to this dispute, so I have disregarded that aspect of their claim.

22. I dismiss BV's damages claim for damages.

## **ORDER**

23. I dismiss the parties' claims.

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Eric Regehr, Vice Chair