



Civil Resolution Tribunal

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File: CS-2020-005302

Type: Societies and Cooperatives

Civil Resolution Tribunal

Indexed as: *Chohan v. Kitsun Co-Operative Housing Association*, 2021 BCCRT 397

B E T W E E N :

SAPANJIT CHOHAN

APPLICANT

A N D :

KITSUN CO-OPERATIVE HOUSING ASSOCIATION

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. The applicant, Sapanjit Chohan, is a member of the respondent housing co-operative, Kitsun Co-operative Housing Association (co-op). Ms. Chohan filed an internal complaint against another co-op member, Q. Q filed a complaint against Ms. Chohan.

2. Ms. Chohan says the co-op failed to follow its own rules to properly address either complaint and wrongly accused her of breaching the co-op's rules and occupancy agreement. Ms. Chohan asks for an order that the co-op stop the "harassment and wrongful accusations" against her.
3. The co-op says it acted reasonably and followed the rules in addressing the complaints. It denies harassing or wrongfully accusing Ms. Chohan and says the requested order is inappropriate. The co-op asks for an order that the CRT vet any further claims by Ms. Chohan to ensure they are not an abuse of process or barred by the *Limitation Act*.
4. Ms. Chohan is self-represented. The co-op is represented by a lawyer, Amanda Martin.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over certain cooperative association claims under section 125 of the *Civil Resolution Tribunal Act (CRTA)*. The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
6. The CRT has discretion to decide the format of the hearing, including in writing, by telephone, videoconferencing, email or a combination of these. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the evidence and submissions provided.
7. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether the information would be admissible in court. The CRT may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.

8. Under section 127 of the CRTA and the CRT rules, in resolving this dispute the CRT may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.
9. As a preliminary matter, I find this dispute is limited to Ms. Chohan's allegations about how the co-op has handled the June 2020 complaints between Ms. Chohan and the Q family. I say this because Ms. Chohan specifically referred to those complaints in her Dispute Notice. However, Ms. Chohan provided evidence relating to complaints she filed against other co-op members, including directors, both before and after June 2020. In her submissions Ms. Chohan alleges that the co-op has generally failed to properly address all complaints filed against her in the past 20 years.
10. I find it would be procedurally unfair to consider Ms. Chohan's allegations about every complaint filed against her in the past 20 years as those complaints were not identified in Ms. Chohan's Dispute Notice. Ms. Chohan provided evidence related to 3 complaints she made to the co-op in 2019 that she said were not properly addressed. However, Ms. Chohan did not explain in her submissions how she believes the co-op failed to properly address the 2019 complaints. I find the co-op was not provided with a sufficient opportunity to answer Ms. Chohan's general issue with the 2019 complaints or 20 years of complaints. I decline to resolve Ms. Chohan's claim that the co-op failed to address all her complaints over 20 years, other than the June 2020 complaints noted in Ms. Chohan's Dispute Notice.
11. As a second preliminary matter, I decline to make an order that the CRT screen any further disputes filed by Ms. Chohan against the co-op for limitation periods or abuse of process. First, the co-op did not file a counterclaim to ask for this order against Ms. Chohan. So, I find it would be procedurally unfair to address it as part of Ms. Chohan's claim against the co-op. Second, I find such an order would be premature under the circumstances. Although Ms. Chohan says that she will file separate CRT complaints about each co-op complaint against her in the past 20 years, there is no indication from either party that Ms. Chohan has done so. This appears to be Ms. Chohan's first CRT dispute against the co-op. I find abuse of process cannot exist based solely on

what Ms. Chohan says her intentions are for the future. For these reasons, I decline to make the order requested by the co-op.

ISSUE

12. The issues in this dispute are whether the co-op properly addressed the June 2020 complaints by and against Ms. Chohan and, if not, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

13. In a civil proceeding like this one, the applicant must prove her claim on a balance of possibilities. In other words, I must find it more likely than not that Ms. Chohan's position is correct, based on the evidence in this dispute.

14. I have reviewed all submissions and weighed all evidence submitted by both parties. Given my finding above, I have relied only on those submissions and evidence relevant to the June 2020 complaints properly before me in this dispute. I refer to the evidence as necessary to explain and give context to my decision.

Background

15. The co-op was incorporated in 1978. It is undisputed that the co-op consists of 17 units in 2 buildings.

16. Section 18 of the *Co-operative Associations Act* (CAA) says that the co-op's rules are binding on all co-op members. The co-op filed an amended set of rules with the BC Registrar of Companies on June 23, 2014. Rule 2.1 says that the terms and conditions of the attached Occupancy Agreement (OA) are binding on all members. I find the co-op's June 23, 2014 rules and attached OA apply in this dispute.

17. Section 74 of the CAA requires the co-op members to elect or appoint directors. The directors are responsible for managing or supervising the management of the co-op's business under section 76.

Complaints

18. Both parties provided copies of emails to the co-op from Ms. Chohan, Mr. Q and Ms. Q dated June 7, 2020. From those emails I find:

- Ms. Chohan alleged that the Q's child made noise running on the fire escape, which disturbed Ms. Chohan. Ms. Chohan told Ms. Q that the running interfered with her disability and was not allowed by the co-op. Ms. Chohan says Ms. Q acknowledged her son should not have been on the fire escape but told Ms. Chohan she did not "care about the disability and to stop using it as an excuse".
- Ms. Chohan said Ms. Q accused Ms. Chohan of previously bullying her in the laundry room, which Ms. Chohan denied.
- Ms. Q alleged that Ms. Chohan yelled at her 8-year old son in the courtyard, in front of the child's grandmother. She further alleged that she asked Ms. Chohan to leave her family alone and stop yelling but Ms. Chohan continued to yell.
- Ms. Q also alleged that Ms. Chohan had previously blocked her socially distant exit from the laundry room and had previously yelled at her in the courtyard.
- Ms. Q expressed her fear of Ms. Chohan and her concern for her family.
- Mr. Q emailed the co-op, complaining that Ms. Chohan yelled at Mr. Q in the courtyard later the same evening, calling him horrible, and using profanity. Mr. Q denied provoking or responding to the alleged verbal attack. He also expressed his fear and concern for his family.

19. In a June 8, 2020 email another co-op member (A) said she heard children playing in the courtyard, then Ms. Chohan yelling at a child. A said she could not hear what was said until she went outside and heard Ms. Q tell Ms. Chohan to leave her alone and not speak to her family again.

20. In an undated but signed statement, another co-op member (B) said she was in her home with the patio door open on June 7, 2020. She said she heard and saw the Q

children playing in the courtyard then saw Ms. Chohan enter the courtyard, looking angry and yelling.

21. The co-op told Ms. Chohan of the 2 complaints by the Qs in a June 17, 2020 letter. It said it would place the complaints and witness statement on Ms. Chohan's file and consider them at the next Board meeting. In a second letter the co-op said it had forwarded Ms. Chohan's complaint against the Q family to the Qs, placed the documents on their member files, and would consider it at their next meeting. I find the co-op did take these steps, based on its June 17, 2020 letters to the Q family.
22. In a June 19, 2020 letter the co-op reminded Mr. and Ms. Q of the co-op's courtyard rules, as set out in Rule 11.2. The co-op said that the letter would go on the Q's file.
23. Ms. Chohan submitted 2 letters she wrote, directed to the co-op, both dated June 19, 2020. Both set out Ms. Chohan's version of the June 7, 2020 events, one with more detail than the other. It is unclear which version of the letter Ms. Chohan emailed to the co-op. However, in both letters Ms. Chohan admitted she was having a "challenging" health day on June 7, 2020 and was later admitted to the hospital. Ms. Chohan said that the children's noise was affecting her health. She denied yelling or being aggressive. Ms. Chohan admitted seeing Mr. Q in the courtyard in the evening of June 7, 2020, but denied yelling at, or speaking to, him.
24. In a July 8, 2020 letter, the co-op's lawyer told Ms. Chohan that she had breached section 7.01 and 8.02 of the OA, as well as co-op rules 5.1 and 5.2. These are:
 - Rule 5.1 says that "conduct detrimental" to the co-op is grounds for membership termination.
 - Rule 5.2 defines "conduct detrimental" to include failing to comply with the rules or OA, causing or threatening violence, property damage, or injury.
 - OA section 7.01 requires all members and their family, guests and visitors, to abide by the OA and rules of the co-op.

- OA section 8.02 (good neighbour provision) prohibits members from engaging in conduct which interferes with, or disturbs, other members' quiet or peaceful enjoyment of the development by sound, conduct, or other activity.

25. In the July 8, 2020 letter, the co-op found that Ms. Chohan had verbally harassed the Q's child, Ms. Q and Mr. Q on June 7, 2020. Ms. Chohan was told to refrain from contacting the Q family, and from harassing, or yelling at, any co-op member or anyone on co-op property. The co-op noted that it had warned Ms. Chohan of harassing another co-op member in May 2019. It warned Ms. Chohan that the co-op might hold a meeting to consider a resolution to terminate her co-op membership if it received any further harassment complaints about Ms. Chohan.

26. Ms. Chohan says the co-op did not properly address either her complaint against the Q family, or their complaints against her because it failed to resolve the dispute according to the co-op's policies and rules. Ms. Chohan reproduced rules 25.1 and 25.2 from the co-op's June 15, 2004 rules.

27. As noted above, I find the more recent version of the rules apply here. These are:

- Rule 25.1 says a co-op member may first try to resolve any dispute with another co-op member.
- Rule 25.2 says, if the parties cannot resolve the dispute, a member wishing to initiate a resolution may submit the dispute in writing to the Directors.
- Rule 25.3 says the directors, or an appointed mediation committee, must review any written dispute and may try to resolve the dispute as mediators.
- Rule 25.4 says that, if the dispute is not resolved to the satisfaction of the parties, the directors may, but need not refer the matter to an arbitration committee.
- Rule 25.5 makes the arbitration committee's decision binding on the parties.

28. I disagree with the co-op that the directors resolved the June 7, 2020 written disputes “as mediators”. According to Merriam Webster’s online dictionary, a mediator “works to effect reconciliation, settlement or compromise between parties at variance”. I find the directors did not take steps to effect reconciliation between Ms. Chohan and the Q family. However, as explained below, I find the co-op is not required to take these steps.
29. Contrary to Ms. Chohan’s argument, I find the co-op’s rules do not require the directors to resolve complaints between members and “create a peaceful living environment”. I agree with the co-op that the wording of rules 25.3 and 25.4 are permissive rather than mandatory. In other words, although rules 25.3 and 25.4 allow the directors to act as mediators, or refer members to arbitration, the rules do not require the directors to take those steps. The only thing the directors are required to do, is to review a written dispute under Rule 25.3.
30. The rules do not explain what “review” means or how the directors should conduct a “review”. Given the word’s plain meaning, I am satisfied that the directors reviewed the June 7, 2020 complaints from each party. They gathered witness statements, considered the co-op’s rules and OA, and made decisions on whether the rules had been breached. On balance, I find the co-op took the steps it was required to take under its rules.
31. Contrary to Ms. Chohan’s arguments, the rules do not require the directors to review a written complaint within 1 week of receipt. As noted above, I find Ms. Chohan relies on a former version of the rules.
32. Ms. Chohan says the co-op is harassing her and wrongfully accusing her. I infer Ms. Chohan means the directors wrongly decided that she engaged in “conduct detrimental” on June 7, 2020. I also infer Ms. Chohan means the co-op is harassing her by warning her about a potential membership termination hearing, should the directors receive any future complaints.
33. Section 84 of the CAA requires the directors to act in accordance with the CAA, any regulations, and the co-op’s rules. The directors must act honestly and in good faith,

in the best interests of the co-op, and exercise the care, diligence, and skill of a reasonably prudent person in similar circumstances.

34. The evidence does not show that the directors acted in any manner contrary to section 84 while reviewing the June 7, 2020 complaints. I acknowledge that Ms. Chohan denies yelling at any member of the Q family. I find the directors considered Ms. Chohan's version of events as explained in her June 7 and June 19, 2020 emails. However, there are 2 independent witness statements confirming that Ms. Chohan yelled at Ms. Q and her child. So, I find the directors' decision that Ms. Chohan breached the rules is not unreasonable.
35. Further, I do not consider the co-op's July 8, 2020 letter to be harassment. I disagree that the letter threatened violence against Ms. Chohan by trying to evict her. Rather, I find the letter was a warning about the steps the co-op could take in the future if the co-op received any further similar complaints.
36. For the above reasons I dismiss Ms. Chohan's claims.

CRT FEES and EXPENSES

37. In accordance with the CRTA and the CRT's rules, I find Ms. Chohan is not entitled to reimbursement of her CRT fees or any dispute-related expenses because she was unsuccessful in her claims.

ORDER

38. I dismiss Ms. Chohan's claims, and this dispute.

Sherelle Goodwin, Tribunal Member