



Civil Resolution Tribunal

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Type: Societies and Cooperatives

Civil Resolution Tribunal

Indexed as: *Neetz v. Kawkawa Camp Society*, 2024 BCCRT 96

B E T W E E N :

CALVIN NEETZ and ELSIE NEETZ

APPLICANTS

A N D :

KAWKAWA CAMP SOCIETY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is about records access. The applicants, Calvin Neetz and Elsie Neetz, are members of the respondent society, Kawkawa Camp Society (Kawkawa). The Neetzes say Kawkawa originally denied their request to view society records about membership. The Neetzes say Kawkawa subsequently provided redacted and

incomplete records that fall short of its legal obligations. It seeks an order for Kawakawa to “make records available as required per the bylaws”.

2. Kawakawa disagrees and says it has complied with the bylaws. It says the Neetzes have not clarified what further documents they seek. It also referred to section 6(1)(c) *Privacy Act* in support of its position before it produced any documents. As discussed below, I find this was likely meant to be a reference to the *Personal Information Protection Act* (PIPA).
3. Calvin Neetz represents the Neetzes. A director, Gregory Cross, represents Kawakawa.
4. For the reasons that follow, I find the Neetzes have proven their claim.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over certain society claims under section 129 of the *Civil Resolution Tribunal Act* (CRTA). CRTA section 2 says 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.
6. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT’s mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness.
7. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, even where the information would not be admissible in court.

8. Under CRTA section 131, 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.

ISSUES

9. As discussed below, the Neetzes in reply submissions requested access to records generally, rather than those only about membership. So, I find the issues in this dispute are as follows:
 - a. What is the scope of the claim I must decide?
 - b. Must Kawkawa provide the Neetzes access to any records?

BACKGROUND, EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, the Neetzes as the applicants must prove their claims on a balance of probabilities. This means more likely than not. I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
11. This dispute shares some aspects from my previous decision of *Aichele v. Kawkawa Camp Society*, 2023 BCCRT 805. In *Aichele*, the issue was also whether Kawkawa had provided sufficient records access under the bylaws. As I noted in *Aichele*, Kawkawa became incorporated in April 2008. Its constitution says its purposes include establishing and maintaining a recreational camp and providing religious instruction.
12. Section 11 of the *Societies Act* (SA) requires a society like Kawkawa to have bylaws. The bylaws, filed on March 29, 2017, are relevant. Bylaw 11.2 says that all of Kawkawa's records shall be stored in a safe and secure location at its registered address. It also says Kawkawa's members may view the records at the registered address during office hours with 2 business days' notice to Kawkawa's executive director and chair.

13. It is undisputed that under the bylaws, the Neetzes are members and Greg Cross is Kawkawa's executive director and chair, and all parties had those roles at the time of the records request discussed below.
14. This dispute's background is outlined in the parties' submissions and the Neetzes' separate written statements. On July 8, 2022, Calvin Neetz emailed Greg Cross a request for the Neetzes to view "records on membership". The email is not in evidence, but no parties have brought up any issues about its existence or exact wording.
15. On July 12, 2022, the Neetzes attended Kawkawa's registered office. Kawkawa's staff member, DM, denied access and told the Neetzes to leave. The Neetzes did so.
16. The parties disagree on whether Kawkawa's staff bullied or mistreated the Neetzes. Ultimately, I find nothing turns on this as the Neetzes did not ask for any remedy about the staff or DM's conduct.

Issue #1. What is the scope of the claim I must decide?

17. The Neetzes rely on bylaw 11.2. As noted above, bylaw 11.2 expressly allows members to view records at the Kawkawa's address during office hours with the appropriate notice.
18. I first discuss the scope of the Neetzes' request. The chronology is relevant. As stated earlier, in July 2022, the Neetzes requested "records on membership". On November 22, 2022, the Neetzes filed an application for dispute resolution at the CRT. They later amended their requested resolution on February 24, 2023.
19. Kawkawa subsequently sent the Neetzes photocopies of membership forms and statements of faith signed by each member. As I noted in *Pridham v. Cross*, 2023 BCCRT 941, the statements of faith are documents that each member must sign under bylaw 2.2(a). Kawkawa also redacted what it calls "private information" from the forms. The redacted documents are not in evidence.

20. The Neetzes acknowledged receipt of the documents in a June 22, 2023 email to Greg Cross. However, the Neetzes replied that they wished to view all the records at Kawkawa's office under bylaw 11.2. Similarly, in reply submissions, the Neetzes also said they wanted to view all of Kawkawa's records under bylaw 11.2.
21. Contrary to the reply submissions, I find that that I should only decide the issue of the Neetzes' July 2022 request for records on membership. I find procedural fairness requires this approach. The submissions and evidence before me focus on the July 2022 request and not the June 2023 request. This is because when the Neetzes applied for dispute resolution, the outstanding issue at the time was access to records on membership. I find that the June 2023 request was a new and separate record inspection request and should be the subject of a different application for dispute resolution.
22. Further, I find that any inspection request under bylaw 11.2 must likely be reasonable. While not the subject of this dispute, I find it would be difficult to decide the Neetzes' June 2023 request because, on its face, it appears to be for essentially unlimited access, without reference to any particular times, dates, or class of documents.
23. In summary, I will only consider the July 2022 record request in this dispute.

Issue #2. Must Kawkawa provide the Neetzes access to any records?

24. It is undisputed that in July 2022, the Neetzes provided the appropriate notice by email and appeared at the appropriate time and place under the bylaws. Bylaw 11.2's wording allows members to view records generally and do not prohibit them from inspecting membership records. So, I find its wording supports the Neetzes' claim. I turn to Kawkawa's arguments against inspection.
25. Kawkawa cites section 6(1)(c) of the *Privacy Act*. Kawkawa says that provision states the following: "an organization must not disclose personal information about an individual." This provision does not exist in either the BC or federal *Privacy Act*. As mentioned above, I find it likely refers to section 6(1)(c) of PIPA, which has an identically worded provision.

26. PIPA sets out how private organizations, such as the Kawkawa, can collect, use, or disclose an individual's personal information. PIPA section 18(1)(o) says that an organization may only disclose personal information about an individual, without consent, if, among other things, the disclosure is required or authorized by law. In *McClocklin v. The Owners, Strata Plan NW 3323*, 2021 BCCRT 937, I found that a strata corporation was required to provide certain requested documents under section 36 of the *Strata Property Act*. I concluded that this was a mandatory provision that required or authorized disclosure by law under PIPA section 18(1)(o).
27. I find that similar reasoning applies in this dispute. I find that bylaw 11.2. requires or authorizes Kawkawa to disclose records.
28. Further, I find that bylaw 11.2 does not give Kawkawa any discretion to refuse the Neetzes' request or redact the requested records. So, I find PIPA section 6(1)(c) does not prevent disclosure or inspection of records in the circumstances.
29. Kawkawa says that, in any event, it satisfied the Neetzes' July 2022 request by delivering photocopies of member documents. However, as Kawkawa redacted these documents, I find it did not comply with the July 2022 request. This is because the bylaws do not say Kawkawa may make such redactions.
30. I note that SA section 25(1) allow directors to, by a directors' resolution, restrict the members' rights to inspect the society's register of members. However, there is no evidence before me that the directors passed such a resolution here. Similarly, in *Aichele* I found no indication that Kawkawa had passed such a resolution.
31. In summary, I am satisfied that Kawkawa breached the bylaws by incompletely fulfilling the Neetzes July 2022 request. Given this, I order Kawkawa to comply with bylaw 11.2 and permit the Neetzes access to the membership records during regular business hours on 2 business days' notice to Kawkawa's executive director and chair.
32. I have held that bylaw 11.2 must be interpreted reasonably. Given the conflict between the parties, I find it appropriate to order certain reasonable limits on the inspection. I order that with respect to the above-noted inspection of its records,

Kawkawa may require the inspection to be supervised and may set a reasonable time limit for the inspection considering the circumstances of the request.

CRT FEES AND EXPENSES

33. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I therefore order Kawkawa to reimburse the Neetzes for CRT fees of \$225. The parties did not claim any specific dispute-related expenses.

ORDERS

34. I order Kawkawa to comply with bylaw 11.2 and permit the Neetzes access to Kawkawa's membership records during regular business hours on 2 business days' notice to Kawkawa's executive director and chair.

35. I order that with respect to the above-noted inspection of its records, Kawkawa may require the inspection to be supervised and may set a reasonable time limit for the inspection considering the circumstances of the request.

36. I order Kawkawa to reimburse the Neetzes for CRT fees of \$225.

37. The Neetzes are entitled to post-judgment interest as applicable.

38. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, the order can be enforced through the British Columbia Provincial Court if it is an order for financial compensation or return of personal property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

David Jiang, Tribunal Member