



# Civil Resolution Tribunal

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Type: Societies and Cooperatives

Civil Resolution Tribunal

Indexed as: *Deer Ridge Water Association v. Truant*, 2024 BCCRT 276

B E T W E E N :

DEER RIDGE WATER ASSOCIATION

**APPLICANT**

A N D :

JOHN DOUGLAS TRUANT and KATHRYN TRUANT

**RESPONDENTS**

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## REASONS FOR DECISION

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Tribunal Member:

Eric Regehr, Vice Chair

## INTRODUCTION

1. The Deer Ridge Water Association (DRWA) is a society established to provide household water to properties near Christina Lake. John Douglas Truant and Kathryn Truant own one of those properties. The DRWA claims \$2,500 for the Truants' 2022 annual fee and their share of two "cash calls", which the Truants have not paid.

2. In October 2022, the Truants put a large rock blocking access to their water shutoff valve. The DRWA alleges that it has a right to access the valve. It claims another \$2,200, which it says would be the cost to excavate and install a new shutoff valve. In total, the DRWA claims \$4,700. An executive member represents the DRWA.
3. The Truants generally describe the DRWA's claim as "false" but do not explain why they are not responsible for the 2022 fees and cash calls. They focus on the water valve issue. In short, they say that the valve is on their property and that DRWA has no legal right to access it. They ask me to dismiss DRWA's claims. The Truants represent themselves.

## **JURISDICTION AND PROCEDURE**

4. These are the CRT's formal written reasons. 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.
5. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, both sides to this dispute question the credibility, or truthfulness, of the other. However, in the circumstances of this dispute, it is not necessary for me to resolve the credibility issues that the parties raised. There is no other compelling reason for an oral hearing, especially considering the CRT's mandate to provide proportional and speedy dispute resolution. I therefore decided to hear this dispute through written submissions.
6. The CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even if the information would not be admissible in court.

7. Under CRTA section 131 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.

## **ISSUES**

8. The issues in this dispute are:
  - a. Do the Truants owe the DRWA \$2,500 for outstanding fees and cash calls?
  - b. Must the Truants pay the DRWA \$2,200 to install a new shutoff valve?

## **BACKGROUND AND EVIDENCE**

9. In a civil claim such as this, the DRWA as the applicant must prove its claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. DRWA was incorporated in 1993. Since then, it has maintained the water system that services nearby lots. The Truants have been members for over 30 years.
11. The applicable bylaws are from November 1, 2018. Under the bylaws, each of the 11 properties on the water system is entitled to have an owner act as a director. Bylaw 2.3.1 says that the directors determine each year's annual member fees at an annual general meeting (AGM). The fees are due within 30 days of the AGM. Bylaw 2.3.2 says that the directors may make a "cash call", which would be divided equally between the directors. Cash calls are due within 30 days of the directors receiving notice of them. Bylaw 2.4 says a member who fails to pay their annual fees is not in good standing. Bylaw 2.6 says that if a member is not in good standing for six months, their membership is terminated. Bylaw 2.6.2 allows the DRWA to "physically sever delivery of water" to any member not in good standing.
12. The 2022 AGM took place on May 21, 2022. The Truants both attended. The directors passed a motion setting the 2022-2023 fees at \$106 for an empty lot, \$160 for a

seasonal lot, and \$267 for a permanent lot. The directors also passed a motion for a \$1,300 cash call for each property. This money was to upgrade or repair certain components of the water system. The Truants' lot is classified as a "vacant lot", as they use it for camping. So, their member fee was \$106.

13. On July 20, 2022, the DRWA wrote to the Truants that their payment was late. The DRWA demanded payment of the outstanding \$1,406. The DRWA also informed the Truants that they were no longer in good standing.
14. The Truants initially refused to pay and questioned the DRWA's legal authority to collect fees. However, on August 9, 2022, Mrs. Truant emailed the DRWA president that they would pay soon.
15. The directors held another meeting on August 27. The purpose was an urgent cash call. The directors passed a resolution raising a \$1,000 cash call per property to cover a cash shortfall. The DRWA emailed the minutes to the members, including the Truants, on August 30. The email said the Truants now owed \$2,406.
16. On September 30, the DRWA notified the members that the water system would be down for two days in October to replace some components. The DRWA says it shut off all members' water on October 5 to allow for these repairs. The DRWA did not re-open the Truants' valve due to non-payment of fees.
17. On October 12, Mrs. Truant wrote to the other members that the Truants had just arrived at their property for the Thanksgiving long weekend to find their water had been capped. She said they had arrived "cheque book in hand" to pay their outstanding fees but were rethinking their position because of DRWA's action.
18. On November 28, the DRWA sent the Truants a letter notifying them their membership would be terminated on December 23 if they did not pay their arrears. They did not pay and are not current members of the DRWA.

## **ANALYSIS**

### ***Do the Truants owe the DRWA \$2,500 for outstanding fees and cash calls?***

19. As noted above, the Truants' submissions do not explain why they are not responsible for the 2022 fees and cash calls. The evidence indicates that the members have, at times, disagreed about various legal matters related to the DRWA's ownership of the water system and its right to access different lots it services.
20. I find none of this affects the DRWA's claim for unpaid fees. The obligation to pay annual fees and cash calls is unrelated to any ownership or easement issues. The obligation arises solely from the Truants' membership in the DRWA and the bylaws that governed them as members. There is no suggestion that the DRWA did not follow the proper process in setting the 2022 fees or the two cash calls. The Truants' ongoing unwillingness to pay seems to come from the breakdown in the parties' relationship following the DRWA's decision to cut off the Truants' water.
21. I find that the Truants must pay the outstanding fees and cash calls. As noted, they owe \$2,406. The DRWA had previously imposed an administrative fee, which explains why they claimed \$2,500, but they abandoned this in submissions. I order the Truants to pay the DRWA \$2,406.

### ***Must the Truants pay the DRWA \$2,200 to install a new shutoff valve?***

22. The DRWA's claim for the cost to install a new shutoff valve is based on two things. First, that it has a right to access the valve, and second, that the Truants turned the water valve on before putting the boulder on. I find it has proven neither thing.
23. First, the DRWA provided a schematic from when the water system was built in 1981 that it says shows the shutoff valve on the road right of way, not on the Truants' lot. The Truants insist the valve is on their property. Photos in evidence show that the valve is several feet off the road. It is not possible to conclude from this evidence that the valve is on the road right of way. The parties also dispute whether the DRWA has an easement to access the valve even if it is on the Truants' property. Neither party provided any Land Title records to show what charges there are on title to the Truants'

property. I find the evidence does not establish that the DRWA has an enforceable legal right to access the valve without the Truants' consent. I wish to emphasize that I am not concluding that the DRWA does not have that right, only that the evidence before me is insufficient to prove it.

24. Second, the DRWA says that it has "assumed" the Truants turned the valve on before covering it with the boulder. The DRWA says that the Truants are therefore effectively stealing water. The Truants deny this. I find the DRWA's assertion is speculative and unproven.
25. For these reasons, I am not satisfied that the DRWA has a right to access the valve. It is therefore not entitled to compensation to install a new one after the Truants covered the original valve with a boulder. I dismiss this claim.

### **CRT FEES, EXPENSES, AND INTEREST**

26. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. The DRWA was partially successful, so I find it is entitled to reimbursement of half of its \$225 in CRT fees, which is \$112.50. The DRWA did not claim any dispute-related expenses.
27. The *Court Order Interest Act* applies to the CRT. The DRWA is entitled to pre-judgement interest on the \$1,406 annual fee and first cash call from June 20, 2022, and the \$1,000 second cash call from September 26, 2022. This equals \$156.62.

### **DECISION AND ORDERS**

28. I order that within 30 days of this decision, the Truants pay the DRWA \$2,675.12, broken down as follows:
  - a. \$2,406 in unpaid fees and cash calls,
  - b. \$156.62 in prejudgment interest, and

c. \$112.50 in CRT fees.

29. The DRWA is also entitled to post judgement interest, as applicable.

30. I dismiss the DRWA's remaining claim.

31. This is a validated decision and order. 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.

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Eric Regehr, Vice Chair