



Civil Resolution Tribunal

Date Issued: April 12, 2018

File: ST-2017-004082

Type: Strata

Civil Resolution Tribunal

Indexed as: *Hope v. White et al*, 2018 BCCRT 128

BETWEEN:

Sharon Hope

APPLICANT

AND:

Peter Whyte and The Owners, Strata Plan VIS 1478

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant Sharon Hope owns a strata lot in the respondent strata corporation, The Owners, Strata Plan VIS 1478 (strata). The respondent Peter Whyte was the strata council president at all material times.
2. The applicant had initially named additional respondents: Mike Hughes, Barbara Woodward, and Gerald VanDungen, who were strata council members at all material times. However, in December 2017, the applicant withdrew her claims against all respondents except the strata and Mr. Whyte. The style of cause above therefore reflects Mr. Whyte and the strata as the only respondents in this dispute. The parties are self-represented.
3. The applicant says she volunteered her services to the strata, but that on May 18, 2017 Mr. Whyte “fired” her from all strata business. The applicant says he did so based on the incorrect belief that the applicant had ordered asphalt on behalf of the strata, when she had not. At a July 2017 council hearing held at the applicant’s request, she says she proved she had not ordered asphalt, and yet the other council members unfairly approved Mr. Whyte’s decision to dismiss her.
4. The applicant says the strata treated her unfairly. She wants these remedies: to be able to volunteer in the roles she previously occupied, an apology from Mr. Whyte, exploration of avenues to prevent a recurrence, and the adoption of protocols for dismissal, such as a code of conduct.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over strata property claims brought under section 3.6 of the *Civil Resolution Tribunal Act* (Act). The tribunal’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.

6. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
7. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I heard this dispute through written submissions because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
8. Under section 48.1 of the Act and the tribunal rules, in resolving this dispute the tribunal may make one or more of the following orders:
 - a. order a party to do or stop doing something;
 - b. order a party to pay money;
 - c. order any other terms or conditions the tribunal considers appropriate.

ISSUES

9. The issues in this dispute are:
 - a. What obligations did the strata have to the applicant volunteer?
 - b. Did the strata treat the applicant significantly unfairly when it terminated her volunteer services?
 - c. To what extent, if any, are the individual council members responsible for the applicant's claims?

EVIDENCE AND ANALYSIS

10. In a civil claim such as this, the applicant bears the burden of proof. While I have reviewed all of the materials submitted, I have limited my review of the evidence and submissions below to what is necessary for this decision.

11. The evidence before me is limited, as Mr. Whyte provided only a brief submission and the other parties provided no evidence or submissions at all.
12. For the purposes of this dispute, and based on the correspondence in evidence from the asphalt supplier, I accept that the applicant did not order asphalt for the strata and instead only made inquiries and obtained a quote. However, that conclusion does not mean the applicant succeeds. I find the applicant's dispute must be dismissed. My further reasons follow.
13. The *Strata Property Act* (SPA) sets out the democratic framework for how the strata must operate. The strata is run by a strata council, elected by the owners at each annual general meeting (AGM), with replacement council members permitted as set out in the SPA and the strata's bylaws. As set out in section 3 of the SPA, the strata council is responsible for managing and maintaining the common property of the strata for the benefit of all owners.
14. The applicant was not a council member. She was a volunteer. Certainly, some of the AGM minutes and a 2014 rule contemplate participation of owners on committee and "work bees". However, there is nothing in the SPA or the strata's bylaws, (the 2014 rule was never ratified and therefore no longer exists), that dictate how the council must handle any decision to stop using the assistance of unpaid volunteers.
15. In the strata's filed Dispute Response, completed by Mr. Whyte in his role as strata council president, the strata stated that the applicant was never assigned or selected to carry out any tasks or positions by the then current elected council. Mr. Whyte stated the applicant had a self-styled title of 'volunteer coordinator'. Mr. White wrote that the message 'dismissing' the applicant was that her involvement in management was not wanted and was regarded as interference with specific maintenance and repair matters. Mr. Whyte explained the applicant could volunteer for any task an owner in general may take up. Based on the evidence before me, I accept Mr. Whyte's evidence as accurate, bearing in mind it was not particularly disputed by the applicant.

16. The applicant submitted an undated typed note from the strata council that was provided to her after her July 18, 2017 council hearing. The note confirmed Mr. Whyte's decision to dismiss her from participation in the strata's business for the duration of the present council (noted to be until about March 1, 2018). The note stated that the ban was not permanent, nor was it intended to stop the applicant from doing volunteer work, attending meetings, or having her say. The note recognized the applicant's good intentions and that her contribution to the strata was appreciated. However, the note went on to add that there were those who were displeased with "what you've done and how you've done things at times". The council concluded the note by saying it was its prerogative to decide who will or will not participate in the strata's business.
17. I find the strata's position in the above note was not unreasonable. I find that there was nothing significantly unfair in the strata's decision, either in the decision itself or in how it was communicated to the applicant. Even if Mr. Whyte was abrupt in his conversation with the applicant about his decision that her services were no longer required, that does not rise to the threshold of significantly unfair. I do not accept the applicant's submission that a protocol for handling "volunteer dismissals" is required.
18. The owner is mistaken when she submits that she has lost her freedom of choice and most of her rights as an owner. Nothing in the strata's decision, or that of its individual council members, precludes the owner from participating as an owner in the strata's business. Like any other owner, the applicant can participate by voting at general meetings, asking for a vote to be held, requesting a hearing, speaking at a council meeting to the extent the bylaws permit owners to do so, or volunteering to the extent the strata requests her assistance. Nothing prevents the applicant from running for a council position.
19. Given my conclusions above, I find the applicant's dispute must be dismissed. As such, I do not need to address the applicant's requested remedies.

20. In accordance with the Act and the tribunal's rules, I find the applicant is not entitled to reimbursement of her tribunal fees because she was not successful in this dispute.

ORDERS

21. I order that the applicant's dispute is dismissed.

22. As set out in section 189.4 of the SPA, I order the strata to ensure that no part of its expenses in defending this proceeding are allocated to the applicant.

Shelley Lopez, Vice Chair