



Civil Resolution Tribunal

Date Issued: September 26, 2018

File: ST-2017-002145

Type: Strata

Civil Resolution Tribunal

Indexed as: *Wadler v. The Owners, Strata Plan VR 495*, 2018 BCCRT 567

BETWEEN:

Emily Wadler

APPLICANT

AND:

The Owners, Strata Plan VR 495

RESPONDENT

AND:

Emily Wadler

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Kathryn Berge, QC

INTRODUCTION

1. This decision of the Civil Resolution Tribunal (tribunal) is about whether a strata acted fairly when it made orders and imposed fines on a strata lot owner and whether those fines and orders should be enforced. Only relevant evidence and submissions are referred to in this decision.
2. On October 3, 2016, the applicant and respondent by counterclaim, Emily Wadler, (owner), became the registered owner of strata lot 5 (strata lot) in the respondent, and applicant by counterclaim, strata corporation, The Owners, Strata Plan VR 495 (strata). The owner represents herself. The strata is represented by a council member.
3. The strata is a 23 strata lot development, registered at the Land Title Office on December 7, 1977. The owner purchased a bachelor suite in it with the intention of renovating the kitchen and bathroom and turning it into a one-bedroom suite. This was part of her overall investment strategy, upon which she relies for her income. Her strategy required her to live in the strata lot during the renovation, rent it out at an increased rent for much of that year and then sell at a profit at the end of the year. The existing tenant was given notice. It became vacant on approximately November 24, 2016. Renovations began immediately, with the owner acting as contractor. The strata quickly received complaints about the renovation. By December 2017, the strata council (council) had begun to make orders and impose fines because of the owner's breaches of strata rules and bylaws.
4. The owner's plan to renovate the strata lot required municipal permits. To obtain them and complete the work, she forged 2 council members' signatures on a document submitted to the local municipality.
5. The strata's view is that the owner violated and continues to violate various strata bylaws and rules and failed to pay strata fees and special levies. By June 12, 2018, the strata had recorded 73 different fines and other charges due from the owner, totalling \$15,485.70.

6. The owner says that the strata's actions towards her have been significantly unfair. and have caused her financial loss. She wishes for the tribunal to cancel most of the charges levied by council against her, reverse decisions made by council in relation to her strata lot and order the strata to pay compensation for the wrongs she has suffered because of its conduct.
7. The strata replies that its council acted within its authority in a fair and reasonable manner under the circumstances, keeping the interests of the strata corporation as a whole in mind. It asks the tribunal to dismiss the owner's claims, enforce council's fines and orders, order the owner to comply with strata bylaws and rules and compensate it for its costs incurred as a result of the owner's actions.
8. The relationship between the parties remains poor. The owner continues to refuse to abide by various strata bylaws and rules and has not paid the charges demanded by council. The strata has filed a lien against the owner's strata lot to secure the payment of some charges.
9. Specifics regarding the many issues in dispute are described below. For the reasons that follow, I allow both parties' claims in part.

JURISDICTION AND PROCEDURE

10. These are the formal written reasons of the tribunal. The tribunal has jurisdiction over strata property claims brought under section 3.6 of the *Civil Resolution Tribunal Act* (Act). Its 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.
11. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I conducted 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.

12. 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.
13. Under section 48.1 of the Act and the tribunal rules, in resolving this dispute the tribunal may order a party to do or stop doing something, order a party to pay money, order any other terms or conditions the tribunal considers appropriate.

BACKGROUND

14. The strata's bylaws relevant to this claim consist of the "Schedule of Standard Bylaws" pursuant to the *Strata Property Act* (SPA), plus supplementary bylaws 1-9 added in March 2016 that are in addition to the Schedule of Standard Bylaws (2016 bylaws). The 2016 bylaws were in force when the owner purchased her strata lot that year. After that purchase, the strata amended its bylaws again on June 21, 2017 in a manner that materially affects this claim. The strata has also passed rules relevant to this dispute.
15. The relevant 2016 bylaws are:
 - Bylaw 1 Fines: strata authorized to charge a fine of \$100 for bylaw infractions and \$50 for rule infractions, with further \$50 fines for each month that the bylaw or rule infraction continues.
 - Bylaw 2 Strata fees collection and in particular the following subsections:
 - 2.1: monthly strata fees are due on the first day of each month; they become overdue if they are unpaid after 30 days,
 - 2.2: special levy fees are payable immediately,
 - 2.3: \$50 fine imposed for late monthly strata fees, with interest charged at 3% monthly on such fees,

- 2.4: \$25 fee charged for any strata fee that doesn't clear the owner's bank account and get covered during the month it is due (NSF fee), with the NSF fee for the first such infraction waived,
- 2.6: \$50 fine for overdue special levies will be imposed "immediately", plus interest at 3% monthly on overdue levies.
- Bylaw 3.2 Security: ...Nothing is to be left in the lobby or building hallways".
- Bylaw 6 Building Renovations: bylaws 6.1–6.6 outline the responsibilities of an owner who wishes to undertake renovations of a strata lot. Owners must obtain the advance written consent of council before any renovations are undertaken (letter of permission). Owners are accountable for insuring that the renovations are safely done and required legal permits and approvals are obtained. Particularly relevant portions of bylaw 6 are:
 - 6.1 and 6.2: an owner intending to make proposed interior or exterior changes to their strata lot must first submit their written description of their proposed alterations, detailed plans and diagrams to the council (including specific dimensions, designs, materials, style and colour). Copies of all required permits must be submitted to council before approval can be authorized,
 - 6.3: the owner must ensure that trades workers performing the alterations are certified and/or licenced and carry liability insurance,
 - 6.4: trades workers are to keep the common areas or limited common areas clean and free from damage. Damages or repairs necessary to common areas as a result of trades workers will be charged to the strata lot owner.

Note: SPA Standard Bylaw 5(2) is also relevant to the interpretation of renovation bylaw 6: a strata must not unreasonably withhold its approval of strata lot alterations but may require that the owner agree, in writing, to take responsibility for alteration expenses.

Read together, bylaw 6 and SPA Standard Bylaw 5(2) are referred to in this decision as the “renovation bylaw”.

- Bylaw 7 Renters: bylaw 7.1 requires owners, within 2 weeks of renting out their strata lot, to submit a “Form K – Notice of Tenants Responsibilities” to the strata and provide identifying information regarding new renters.
- Bylaw 9 Use of Property: a resident or visitor must not use a strata lot or common property in a manner that causes a nuisance, hazard, unreasonable noise in a way that...unreasonably interferes with the right of other persons to enjoy the common property and common assets or another strata lot or...is illegal.
- Bylaw 11: an owner in default of payment of common expenses, strata fees, special levies, interest, fines and any other amount owing pursuant to the SPA (“arrears”) will reimburse the strata and hold it harmless against any and all costs and expenses required to collect such arrears, including legal costs, comprised of legal fees, taxes, disbursements and other related expenses, as between a solicitor and his own client or on a full indemnity basis.

16. On June 21, 2017, the following further bylaw amendments were registered by the strata:

- Bylaw 1 Fines: maximum fine for a bylaw breach increased from \$100 to \$200 for each breach; rule breach fines remained at \$50 each. A new fine may be imposed every 7 days for a continuing breach of a bylaw or rule.
- Bylaw 7 Rentals: amended to add that a strata lot “may be leased for a minimum term of 4 months” (bylaw 7.1); there will be “no rentals of a portion of a strata lot “(bylaw 7.2) and that “a strata lot must not be used for short-term accommodation purposes, such as...”Airbnb”.

17. Strata rules relevant to this claim are:

- Rule 2: a \$50 “Move In/Move Out” fee will be charged to the owner for each move in or out of the strata.
- Rule 11: “nothing is to be placed in the building lobby or hallways...”.
- Rule 12: “balconies are to be kept clean and neat in appearance. A balcony area is not to become unsightly. Laundry, patio furniture, etc. is not to be hung over the balcony railings”.

POSITION OF THE PARTIES

Owner’s Claims

18. The owner asks the tribunal to make orders for the strata to:
- a. pay her total compensation of \$41,550 for its wrongful actions for harassment, lost rental and investment income and loss of use of her storage unit,
 - b. provide a retroactive letter of permission saying that she is authorized to renovate her strata lot in the manner she has requested,
 - c. cancel \$4,762 in fines assessed by the strata in respect of her strata lot,
 - d. pay her \$225 tribunal fees.

Strata’s Counterclaims

19. The strata asks the tribunal to dismiss all the owner’s claims and make orders requiring the owner to:
- a. comply with strata bylaws,
 - b. pay \$15,485.70 in fines and fees assessed by the strata,
 - c. remove all renovations to the owner’s strata lot done without the strata’s consent and restore it to its pre-renovation condition,

- d. provide the strata with a written apology and admission of wrongdoing,
- e. fully compensate the strata for its legal expenses in respect of this claim and counterclaim.

ISSUES

20. There are 4 issues to be decided:

Issue 1: Is the owner liable to pay the charges claimed by the strata?

Issue 2: Should the owner's other requests be granted (letter of permission from the strata to renovate; award of damages)?

Issue 3: Should the strata's other requests be granted (written admission of wrongdoing; removal of unapproved renovations and return of the owner's strata lot to its original condition)?

Issue 4: What fees and expenses are payable by either party to the other?

EVIDENCE AND ANALYSIS

- 21. In these 2 claims, the parties ask the tribunal to make various orders. The party asking for an order has the responsibility of proving it, on the balance of probabilities (burden of proof).
- 22. Communication problems between the strata and the owner developed quickly after the owner's purchase of her strata lot. The strata provided in evidence a copy of the September 29, 2016 "welcome package" sent to the owner at the address provided by her at the time of the purchase. It contained a complete set of strata bylaws and rules, forms and administrative policies. The owner insisted she wished to have the strata resend it by email. It made various efforts to comply. Despite these efforts, the owner says that she did not receive the welcome package.

23. SPA section 128(2) says that bylaw amendments are effective as of the date that they are registered in the Land Titles Office. As a preliminary matter, I find that the owner is not excused from being bound by the strata's amended bylaws and rules as a result of any confusion regarding her receipt of the strata's welcome package. She is deemed to have notice of the strata's bylaws as of the date that she assumed ownership of her strata lot, given that they were filed at the Land Titles Office on that date.
24. On November 24, 2016, the owner began bringing lumber and building materials into her strata lot and began demolition of its kitchen. She had not provided council with any notice of the work to be undertaken, nor obtained its advance written permission. That same day, council posted a "stop-work notice" on the door of the owner's strata lot. It emailed the owner a summary of the renovation bylaw and asked her to immediately seek the strata's consent to the renovations before any further work was done.
25. On November 25, 2016, the owner emailed the strata a list of the planned renovations and the names of the tradespersons who would be working for her.
26. On December 1, 2016, the strata emailed the owner a list of the detailed information that must be provided by her before the strata would give its written permission to renovate. The email specified the names of the only plumbing and electrical companies that would be permitted to work on common property plumbing and electrical systems affected by the renovations (strata's common property trades). Renovations continued without the strata's written consent.
27. By December 2, 2016, the local municipality had inspected the property and posted a stop-work order on the door of the owner's strata lot, directing that no further work was to take place until municipal building, electrical and plumbing permits were issued. The owner removed the posted municipal and strata stop-work orders. Renovations continued. That day, the strata sent an email advising the owner:

- a. about a complaint received that she had illegally removed a municipal stop-work order and was violating the renovation bylaw by continuing alterations to her strata lot, damaging common areas and dumping construction debris in the common property hallways, garbage area and on her strata lot's limited common property balcony,
 - b. of risk of fines being levied against her for bylaw breaches under SPA Standard Bylaws 7.1 (which were higher than those then allowed under strata bylaw 1),
 - c. that the strata would be entering her strata lot pursuant to SPA Standard Bylaw 7.1, which permits a strata to give 48 hours written notice that authorized persons would inspect her strata lot (SPA inspection).
28. The owner has inconsistent reasons for not obtaining council's advance consent to the planned renovations. She says that the demolition was an urgent necessity because of the deteriorated condition of the unit and black mold in the kitchen area. She asserts that she could not be expected to seek the strata's consent because she had no way to council to ask permission to renovate. She also says that the planned renovations were so minor that they did not require council's advance permission under the renovation bylaw at all. Further, she says that her rights have been compromised, as she should be able to improve her property as she sees fit. After reviewing all of the evidence, I am not persuaded that the owner had a reasonable basis for failing to follow the renovation bylaw and obtain the strata's advance consent to her planned strata lot alterations.
29. On December 12, 2017, the municipality again inspected the owner's strata lot and issued a further stop-work order. The owner continued to renovate. On December 16, 2016, the renovation activity caused a water leak, causing water to pour into the basement of the complex, damaging the common property water system. The owner refused the fire department and council members entry. Using council's powers to enter strata lots in an emergency, council hired a locksmith to open the suite. When the locksmith began to remove the lock, the owner opened the door

and allowed the inspection. The strata paid for the locksmith and water system repair.

30. On December 19, 20 and 29, 2016, council sent further emails to the owner summarizing the information required from her to obtain the strata's consent to her renovation, stressing the need for her to use the strata's common property trades.
31. On January 26, 2017, the owner was sent an email from the strata's property managers which reminded her that payment for the above-described 3 fines was overdue, reminded her she was continuing to breach the renovation bylaw and had not provided written proof of her compliance with bylaw 6.3's requirement that "that all trades workers performing the alterations (are) certified and/or licensed and carry liability insurance". She was also told to remove a storage canopy from her strata lot's limited common property balcony, as it offended the renovation bylaw and rule 12 (balcony canopy complaint). The strata advised that a fine of \$100 would be imposed unless the canopy was removed before January 21, 2017 (a date 4 days before the email was sent). It also provided the owner with particulars of the complaints and her rights under SPA section 135 to respond in writing to the complaints, including at a hearing and, if she did not respond within 14 days, "council will make a decision on this matter" (section 135 information).
32. On February 1 and 3, 2017, the owner told the strata that she would not remove the balcony canopy because it was being used for storing construction debris in a clean and tidy manner until she could move it off-site. She noted that "I will pay the \$100 (fine) if I have to, but I will not remove it".
33. By the beginning of February 2017, the owner was desperate to be able to complete the renovations and begin to earn rental income, pursuant to her investment strategy. She was frustrated by council's refusal to provide the letter of permission unless she consented to the requested terms. On February 1, 2017, she requested a hearing before council regarding the strata's lack of approval of her renovation, the 3 fines levied against her in December 2016 and the request to

remove the canopy from her strata lot's balcony. Due to the owner's unavailability, the hearing was not held until July 24, 2017.

34. On various dates, including February 7, 28 and March 1, 2017, the owner emailed the strata with information about the completed and uncompleted renovations. Her evidence is that her emails attached various certificates required by the strata in order to confirm aspects of the renovation. In response to the February 28 and March 1, 2017 emails, the strata advised the owner that it could not open the attachments. It asked her to convert them to a different format. After reviewing conflicting evidence from both parties, I find that the owner did not disclose the certificates in a format accessible to the strata until they were produced during the adjudication of this claim.
35. On March 2, 2017, after much dissension, and still-incomplete documentary disclosure, council provided the owner with a draft letter of permission, again specifying the strata's common property trades. She refused to sign it. She insisted that the strata amend the letter to allow her to use her chosen plumber. The strata's response was that its preferred plumbers must do all work on the common property plumbing, as they were well versed in the specifics of the strata's common property's construction. Ultimately, no letter of permission was signed by the parties.
36. The owner did not want to wait for her requested hearing before completing the renovations. She needed the municipal building permits to proceed further. These could only be obtained with the strata's written consent. She admits that, in order to obtain the building permits, she forged 2 strata councilors' signatures on the strata's March 2, 2017 draft letter and submitted it to the municipality. Without the strata's knowledge, the permits were issued on April 12, 2017. The owner continued to renovate without the strata's consent.
37. By April 2017, the owner had registered her strata on Airbnb and was receiving reviews from clients who were staying in her strata lot. Some clients entered the strata lot by climbing over the strata's common property fence and entering

through the strata lot's balcony door. I find that the evidence establishes that, since at least April 2017 onwards, the owner has been operating an ongoing Airbnb short-term accommodation enterprise out of her strata lot.

38. Meanwhile, the owner lost her key to the strata's general storage area, in which her strata lot's designated storage locker is located. She requested a replacement key. Council arranged for her to have access to the general storage area, but no replacement. The owner was distressed that council would not provide her with another key. She advised that, as retaliation, she would not pay her June 2017 monthly strata fees.
39. At the May 29, 2017 AGM, the strata passed resolutions imposing 4 special levies and an amended rental bylaw 7, prohibiting short term accommodation use of strata lots, including through Airbnb (Airbnb bylaw). It was registered at the Land Titles Office on June 21, 2017. On June 29, 2017, the strata emailed the owner to put her on notice that, as of the date of the bylaw's registration, she was no longer permitted to use her strata lot for short-term accommodation.
40. On July 24, 2017, the owner's council hearing took place. Council considered a July 1, 2017 statement of account for funds then due from the owner. It listed 19 fees and fines totaling \$1,594.43. The owner had an opportunity to raise all of her concerns about bylaw enforcement and the strata's lack of consent to her renovations. On August 2, 2017, council provided the owner with its written decision about the issues discussed at the hearing.
41. Council's decision reflects that, after hearing the owner's point of view, all amounts on the July 1, 2017 statement of account remained due. Council directed the owner to obey the bylaws. She was told her to stop her continuing unauthorized renovation activity, as well as the use of her strata lot for Airbnb short-term accommodation purposes contrary to the Airbnb bylaw.
42. By July 27, 2017, the strata had determined that the owner was continuing with unauthorized renovations, despite the directions it had given to the owner at the hearing. The strata issued further stop-work and inspection notices.

On July 28, 2017, the owner angrily responded by email. She said that she had a valid building permit and, therefore, the strata had no right to issue a stop-work notice. She told the strata that it must obtain a search warrant to enter her strata lot.

43. I conclude that this July 28, 2017 email from the owner was the first time the strata had notice that the owner had obtained a municipal building permit. The strata immediately notified the municipality that any permits obtained by the owner had been issued without the strata's written consent.
44. The owner's hearing took place approximately 5 months after she requested it. The strata's decision was provided to the owner 9 days after the hearing. Does this timing meet the requirements of the SPA?
45. The owner's hearing was requested pursuant to SPA section 135(1)(e). The SPA and its regulations do not address the timing of a hearing under this section. However, section 135(2) says that an owner must be provided "as soon as is feasible" with council's decision regarding such a hearing. The goal of SPA section 135 is to ensure that an owner has an opportunity to be heard by council about the owner's concerns regarding SPA section 135 bylaw enforcement matters and quickly learn of council's decision regarding them.
46. For the following reasons, I find that the owner had a fair opportunity to be heard about her concerns and learn of council's decision about them:
 - a. council held the hearing on a date agreed to by the owner, after she had refused a selection of much earlier dates proposed by the strata. She also cancelled an agreed earlier date. I find that responsibility for the hearing's delay rests entirely with the owner, as she did not make herself reasonably available for the hearing on an earlier date, and
 - b. council's decision following the meeting was provided in a speedy manner that satisfies SPA section 135(2)'s goals of having council's decision provided "as soon as feasible", particularly given the startling news delivered

by the owner 2 days after the hearing that she had obtained a building permit without the strata's consent.

47. Through a *Freedom of Information Act* search, the strata obtained a copy of the letter of permission submitted to the municipality in order to obtain the April 12, 2017 building permit. The forgery of the council members' signatures on it was confirmed and reported to the municipality. On September 8, 2017, it revoked the April 12, 2017 building permits and posted a further stop-work order. The owner ignored the order and continued with the renovations.
48. Beginning in September 2017, the strata added many further charges to the owner's account. By June 12, 2018, it had an accumulated balance of \$15,485 (June 12, 2018 account). The charges listed on it and described in the correspondence from the strata to the owner are further discussed below.

ISSUE 1: Is the owner liable to pay the charges claimed by the strata?

1.1 Summary of Charges

49. The strata asks the tribunal to order the owner to pay all of the 72 fees and fines out in the June 12, 2018 account. These entries represent more than 72 charges, as some entries are composed of multiple fines for continuing bylaw breaches. There are some inconsistencies in the way entries were recorded. Where necessary, I have determined the amounts claimed to make sense of what I find to be inadvertent slips in recording the charges. Where there is a conflict between an account entry and the correspondence, I have relied upon the correspondence, as it is the most reliable evidence.
50. The owner consents to some charges but has not paid them. She opposes the collection of the rest on the basis that she does not have the funds to pay due to the strata's delay of her renovation. She says that they have been imposed without proper authority, on insufficient grounds or in order to harass her. She asserts that the strata has treated her in a significantly unfair manner.

51. In summary, the strata seeks collection of the following charges:
- a. 6 “move in/move out fees” of \$50.00/move levied pursuant to rule 2,
 - b. June 2017 strata fees of \$218.86 and 4 special levies totalling \$1,987.35 due in May 2017 (consented to by the owner),
 - c. 14 months of \$6.57 interest/month pursuant to bylaw 2.3 imposing interest at 3% monthly for late payment of the June 2017 strata fees,
 - d. 12 charges of \$59.62 monthly pursuant to bylaw 2.6 imposing interest at 3% for late payment of special levies due in June 2017,
 - e. 2 NSF fees of \$25 arising from breaches of bylaw 2.4,
 - f. 47 separate “bylaw breach” fines of \$50 or \$100 each for breaches of the bylaws or rules; one of which is consented to by the owner:
 - g. 4 sums charged to the owner’s strata lot pursuant to SPA section 135(1)(b) reimbursing the strata for the costs of remediating common property damage caused by the owner’s bylaw breaches,
 - h. 5 sums pursuant to bylaw 11 for the reimbursement of the strata’s expenses incurred to collect amounts due from the owner.

1.2 Legal Context for Collection of Charges by Strata

52. Before reviewing the evidence and the fairness of council’s reasoning regarding each of these fines and other charges, it is necessary to consider the general law regarding the strata’s power to order that they are payable by an owner. In this case, no tenants are parties to the claims, so I limit the explanations below to the law affecting owners only.
53. SPA section 3 makes it clear that, except as is otherwise provided in the SPA, the strata corporation is responsible for managing and maintaining the strata’s common property and common assets for the benefit of the owners. The SPA

provides strata corporations and their councils with various powers, including the power to create governing rules and bylaws, set and collect fees payable by owners and enforce the bylaws and rules by assessing fines and recovering costs from them. All of the strata's decisions must be made in an open manner, following fair procedures and fairly applying the law. If a strata acts in a manner that is significantly unfair, an application may be made to correct the error.

54. The tribunal has authority to make orders to prevent or remedy a significantly unfair council decision or action (*The Owners, Strata Plan 1721 v. Watson*, 2018 BCSC 164). Previous Supreme Court decisions have considered the meaning of "significantly unfair" in SPA section 164(1). It has been defined to mean "burdensome, harsh, wrongful.... lacking in fair dealing..." (*Dollan v. Strata Plan 1589*, 2012 BCCA 44).
55. Some fees chargeable by a strata are authorized by the SPA and are decided upon by the strata as a whole by resolution, bylaw or rule, in advance of them being charged to an owner. These fees maintain the operation of the strata (strata fees, special levies and interest on outstanding fees and levies) or compensate the strata for the use of common assets (user fees).
56. Another category of charges consists of amounts that may be levied against an owner but are not routine in nature. In these cases, council must follow the procedure set out in SPA section 135 if it wants to fine an owner for breach of a strata bylaw or rule (section 135(1)(a)) or require an owner to reimburse the strata for the costs of remedying the owner's bylaw or rule breach (section 135(1)(b)). In this claim, many charges disputed by the owner fall into the above 2 categories (a section 135 charge).
57. The strata's power to assess a section 135 charge may only be exercised when, viewed objectively, the charge is substantively fair (fair in its actual effect) and the procedural requirements have been met. Before the section 135 charge can be levied against an owner, sections 135(1)(d)-(e) and 135(2) say that the strata must ensure that the owner has been provided with:

- a. written particulars regarding a complaint received about the owner's alleged bylaw or rule breach,
 - b. notice of the section 135 charge which may be imposed if the bylaw or rule breach is not corrected,
 - c. a reasonable time to consider the information and respond to the complaint and, if requested, a hearing,
 - d. if a hearing is requested, receive written reasons "as soon as is feasible" after the hearing.
58. As a basic principle, failure to follow any of the above-noted steps before a fine or remediation amount is levied will result in a finding that the charge is significantly unfair. In *Terry v. The Owners, Strata Plan NW 309*, 2016 BCCA 449, the strata levied fines without satisfying SPA section 135. It imposed late fees on the basis that the owner had not paid strata fees, yet failed to provide enough detail for the owner to understand the charges. The strata gave the owner that it was considering imposing a fine for non-payment. The Court of Appeal found that these actions were significantly unfair. The fines were held to be invalid. The court emphasized that a strata cannot levy a fine or remediation amount until the owner has been told of the complaint, with enough detail to understand it, give the owner a reasonable opportunity to answer the complaint and, if so requested, hold a hearing and provide reasons for council's decision following the hearing before registering a charge.
59. In some instances, SPA section 135 procedural irregularities can be cured. For example, in *The Owners, Strata Plan VR 2266 v. 228 Chateau Boulevard Ltd.*, 2018 BCCRT 198, the strata registered various charges to the owner's account before the owner responded to the complaint some weeks later. In correspondence, the strata told the owner of the bylaw contravention, cited the bylaw and provided invoices for the repair work done. The strata did not, however, give the owner a sufficient chance to respond before charging the owner's account. After the charges were registered, the strata gave the owner the option

of a hearing. It took place and reasons were provided in writing. The tribunal held that the strata had violated SPA section 135. Therefore, the charges were invalid.

60. SPA section 135(3) says that once a strata has complied with sections 135(1)-(2) in respect of a contravention of a bylaw or rule, it may impose a fine for a continuing contravention without further compliance with the procedural steps set out in sections 135(1)-(2).
61. Below I address each of the categories of fees and charges. I consider whether the imposition of the fees or fines was significantly unfair. Where I have found such unfairness, I have adjusted or disallowed them pursuant to the exercise of my discretion provided to me by section 61 of the Act.

1.3 User Fees

Move In/Move Out Fees

62. Pursuant to strata rule 2, council imposed 6 fees of \$50 (\$300 total) for 6 occasions when either the owner or a tenant moved in or out of the owner's strata lot. The owner consents to 2 fees for moves on November 24, 2016 and December 16, 2016 (\$100 total payable by consent). She disputes the remaining 4 fees charged for March 31, 2017 (move in and out) and February 18, 2018 (move in and out). The fees were charged to the owner's account either on the day of the move or within a few weeks of the move.
63. The owner says that the disputed 4 fees are not payable because, when the tenant moved on those occasions, no furniture was moved. She says that a "move" meriting a fee must involve the moving of furniture. She filed no evidence that, in other instances, or in respect of other owners, rule 2 fees were waived because no furniture was moved on those occasions.
64. The strata says that the fees are applied to all moves in or out of the strata complex. It does not evaluate the complexity of the move nor the goods transported. It says that the owner has been treated in the same manner as all

other owners who are also charged moving fees whether or not furniture is transported. For the owner to be exempted from these standard fees, depending upon the complexity of the move, would be unfairly preferring her financial interests over those of the strata as a whole.

65. Pursuant to SPA section 110 and regulation 6.9, the strata is authorized to impose user fees for the use of common property or common assets, provided that the amount of the fee is reasonable and is set out in a bylaw or rule. User fees, like all other fees charged by the strata, must be administered in a reasonable fashion. I find that the strata's rule 2 "move in/move out" fees are a type of user fee passed pursuant to this authority and that the strata charged them to the owner's account in a consistent, fair fashion.
66. The strata has met the burden to prove the charges claimed. I order the owner to pay all the move-in/move-out fees claimed by the strata: \$100 by consent and \$200 by order.

NSF Fees

67. Pursuant to bylaw 2.4, the strata also seeks an order for the owner to pay 2 NSF fees of \$25 for 2 payments dishonoured by the owner's bank. Neither party made any submissions in respect of these. I find that the bylaw 2.4 NSF fees qualify as SPA section 110 user fees. They are enshrined in a bylaw and are reasonable.
68. The first NSF fee was recorded on the owner's account on June 15, 2017. Bylaw 2.4 provides that the first NSF charge will be waived. The strata did not provide any evidence that, on any prior occasion, the owner had made an NSF payment. The strata has the burden of proof. I find that it did not establish any reason why the owner should not benefit from the bylaw 2.4 provision that an owner's "first NSF" fee is waived. I dismiss the strata's claim for payment of the June 15, 2017 \$25 NSF fee.
69. The strata also seeks an order for the owner to pay a further \$25 NSF charge for a dishonoured payment on March 18, 2018. It appears on the June 12, 2018

account submitted by the strata as evidence of the amounts due from the owner. The owner did not challenge it. In the absence of any objection from the owner, I find that, by virtue of the fee's entry on the owner's account, the strata has established that the owner's payment on that date was dishonoured by the bank. It is entitled to collect this bylaw 2.4 \$25 NSF fee. I order the owner to pay it.

1.4 Unpaid Monthly Strata Fees, Special Levies and Interest Due

70. The strata seeks an order compelling the owner to pay her June 2017 strata fees, 4 special levies and interest on the overdue fees and special levies.
71. The owner's payment of her June 1, 2017 strata fees of \$218.86 failed to clear her account, resulting in a "not sufficient funds" payment. The fees remained unpaid as of August 2018. She consents to pay them. I have no hesitation in ordering this payment.
72. Bylaw 2.3 specifies that interest of 3% monthly will be charged on strata fees that are overdue by more than 30 days. There was some inconsistency in the manner that the strata entered the accumulation of interest on the owner's account. The June 2017 strata fees had been outstanding for 11 months as of June 12, 2018. Although the strata appeared to levy 14 months of interest on these overdue strata fees), I find that it is entitled to ask for only 11 months of interest at \$6.57/month (total \$72.27). The owner disputes that this interest is payable because she cannot afford to pay it due to the strata's significantly unfair delay of her renovation, which obstructed her expected rental revenue stream.
73. SPA section 107(1) authorizes a strata corporation to establish a bylaw setting a rate of interest payable by owners on unpaid strata fees, provided that the rate does not exceed that set out in the regulations. SPA regulation section 6.8 specifies that the interest rate chargeable by the strata corporation must not exceed 10%/year, compounded annually. The 3% monthly interest rate on unpaid strata fees set out in strata bylaw 2.3 exceeds 10%/year. Pursuant to the SPA regulations, the maximum allowable interest rate, chargeable monthly, is .833%/month (10%/12 months = .833%).

74. The 3% monthly interest rate specified by strata bylaw 2.3 is equivalent to 36.02%, compounded annually. This is excessively beyond the 10%/year limit set by SPA regulation 6.8(1). It is not for me to determine what a fair interest rate should be for the strata to charge within the bounds of SPA regulation. Therefore, decline to enforce bylaw 2.3. I dismiss the strata's claim for the owner to pay interest on the outstanding June 2017 strata fees.
75. The strata also seeks to collect a total of \$1,987.35 from the owner arising from 4 overdue special levies approved by the strata in May 2017 pursuant to SPA section 108. The owner agrees to pay this sum but has not paid it. I confirm it must be paid and include it in the consent sum due.
76. The strata's bylaw 2.6 specifies that interest of 3% will be charged on overdue special levies. Given that special levies are due on the date that they were passed, these 4 special levies had been outstanding for 12 months as of the June 12, 2018 account. The strata asks the tribunal to order the owner to pay 12 months of interest at \$59.62/month (total \$715.44).
77. SPA section 108(4.1)-(4.2) authorizes a strata corporation to establish a resolution or bylaw setting a rate of interest payable by owners on unpaid special levies, provided that the rate does not exceed that set out in the regulations. SPA regulation section 6.8(2) specifies that the interest rate chargeable by the strata corporation must not exceed 10%/year, compounded annually. For the same reasons set out above regarding the interest on the unpaid strata fees, the owner disputes that this interest is due. For the reasons as are set out above in respect of the interest due on the outstanding strata fees, I decline to enforce bylaw 2.6. I dismiss the strata's claim for the owner to pay interest on the outstanding special levies.

1.5 Section 135(1)(a) Bylaw Breach Fines

78. The strata asks the tribunal to order the owner to pay the following section 135(1)(a) fines:

- a. 2 “Form K” fines,
- b. 13 fines arising from the owner’s late payment of monthly strata fees and special levies,
- c. 13 renovation bylaw breach fines,
- d. 15 Airbnb bylaw breach fines,
- e. 4 sums reimbursing the strata for the costs of remediating common property damaged as a result of the owner’s bylaw breaches,
- f. 5 sums reimbursing the strata for expenses incurred pursuant to bylaw 11.

Form K Fines

79. The strata asks the tribunal to enforce 2 fines levied by council as a result of the owner’s breaches of bylaw 7’s requirement to provide the strata with a “Form K notice of tenant’s responsibilities” when a new tenant rents the owner’s strata lot (Form K bylaw). The strata says that the owner failed on 2 occasions to submit a Form K when due. On March 20, 2017, council ordered a fine of \$100 and, on November 30, 2017, a further \$50 fine, for breaches of the Form K bylaw (\$150 total claimed).
80. The owner agrees to pay the \$50 November 30, 2017 fine. She objects to the payment of the March 20, 2017 fine on the basis that the “Form K was filed just a little bit late”. She provided evidence that, on April 5, 2017, she filed the Form K that had led to the March 20, 2017 fine. This was well beyond the 2 week bylaw 7.1 limit for submitting it.
81. The strata provided copies of March 6, 28 and 31, 2017 emails asking the owner to submit a Form K due to a change in tenancy that had taken place. The emails did not alert the owner about the particulars of any complaint received as a result of her failure to file the Form K, that a fine might be levied by council as a result of her failure to file it or that she was able to make a reply to a complaint, including at

a hearing. In short, the strata did not comply with SPA section 135 before charging the owner's account with the March 20, 2017 fine arising from her failure to file a Form K. Pursuant to *Terry, supra.*, I find that the strata acted in a significantly unfair manner in respect of it and find the owner is not required to pay it.

82. I dismiss the strata's claim for payment of the March 20, 2017 Form K fine. I accept the owner's agreement to pay the \$50 November 30, 2017 Form K fine and order her to pay it.

Late Payment Fines

83. The strata asks the tribunal to enforce 3 fines of \$50 for the months of July, August and September 2017, levied by council because of the owner's failure to pay her June 2017 monthly strata fees, in violation of bylaw 2.1–2.3 (total \$150).
84. The strata also requests enforcement of 10 fines of \$50 arising from the owner's non-payment of the 4 special levies due as of May 29, 2017 (total \$500).
85. The owner objects to payment of all of these fines. The strata has the burden of proving its application for their enforcement. It did not provide any evidence that it had followed the SPA section 135 procedural requirements before recording them on the owner's account beginning in November 30, 2017. As a result, the strata has not proven that they are properly payable. Again, pursuant to *Terry, supra.*, I find that it acted in a significantly unfair manner when it charged the owner's account for these 13 fines, as the required SPA section 135 procedure was not followed. I dismiss the strata's claim for them.

Renovation Fines

Failure to Comply with Stop-Work Order, Hallway Damage, Canopy Fines

86. The strata asks the tribunal to enforce the following 8 fines based upon 4 renovation bylaw breach complaints (first 8 reno fines):

- a. \$100 fine for a breach of SPA Standard Bylaw 3.1 (“an owner...must not use a strata lot...in a way that...(d) is illegal”). This fine arose from a complaint that, on December 14, 2016, the owner was making alterations to her strata lot, in contravention of the December 12, 2016 municipal stop-work order. The owner opposes the fine on the basis that no significant construction work was underway on December 14, 2016,
 - b. 2 other fines of \$100 each for damage for 2 breaches of the renovation bylaw. The complaints were based upon complaints that the owner had damaged the common property hallway tile floor and carpet on December 16, 2016. The strata says that these 2 instances of damage occurred when the owner moved building materials through the strata’s hallway. The owner opposes the 2 hallway damage fines on the basis that no significant damage occurred,
 - c. 1 fine of \$100 and then 4 monthly fines of \$50 for a continuing breach of rule 12 (“balconies are to be kept clean and neat in appearance as viewed from the street or by neighbours”) and SPA Standard Bylaw 3(1)(e) that common property must be used for the purpose for which it was intended. These fines stem from the balcony canopy complaint.
87. As earlier noted, on December 19, 2016 and January 26, 2017, the strata wrote the owner notifying her about the particulars of these 4 complaints, the bylaws alleged to have been breached, the fines levied to date, those that might be levied in the future if she did not comply with the renovation bylaw and the section 135 information. The first 8 reno fines were added to the owner’s account on May 11, 2017.
88. However, on February 1, 2017, well before the first 8 reno fines were added to the owner’s account, the owner had requested a council hearing. Her written request for the hearing made it clear that she was concerned about the complaints leading to the first 8 reno fines, as well as the larger issue of approval of her renovation.

89. I find that the owner's hearing request was in part motivated by her concern about the complaints leading to the first 8 reno fines. Once she requested the hearing, the strata should have deferred its decision about adding them to the owner's account until it had heard her submissions at the hearing and provided its decision. I apply the reasoning set out in *Terry, supra.*, I find that the strata acted in a significantly unfair manner when it violated SPA section 135 in respect of these first 8 reno fines. I dismiss its application to enforce them.

Renovation Fines April 12, 2017–September 12, 2017

90. The strata asks the tribunal to enforce 13 fines (3 of \$100 and 10 of \$200; total \$2,300) levied by council as a result of the owner's further breaches of the renovation bylaw between April 12-September 12, 2017 (13 reno fines). The 13 reno fines were added to the owner's account on September 14, 2017.

91. The owner does not deny that the breaches occurred during the relevant period. However, she objects to payment ylaw 6of the 13 reno fines because she does not have funds to pay them due to the strata's significantly unfair conduct.

92. The owner was provided with written notice on December 1, 2 and 19, 2016 and January 26, 2017 of the particulars of complaints that she had breached the renovation bylaw. As mentioned above, the January 26, 2017 notice included the section 135 information.

93. On September 14, 2017, the strata wrote the owner on to advise her that the following fines had been levied against her by council for breaches of both the renovation and Airbnb bylaws:

- a. 13 reno fines for a renovation bylaw breach on April 12, 2017 (\$100) and continuing renovation bylaw breaches during May 2017 (\$100) and June 2017 (\$100), plus 10 fines of \$200 (\$2,000) for each week of continuing contravention between July 1, 2017 and September 12, 2017 (overall total \$2,300), and

- b. 4 fines of \$200 each for breach of the Airbnb bylaw (\$800 total; addressed below).
94. The September 14, 2017 letter repeated the section 135 information. It also said that total fines of \$2,800 were being charged to the owner's account, rather than the correct \$3,100 total of the Airbnb fines (\$800) and 13 reno fines (\$2,300). I find that this addition error was inadvertent, as the letter was otherwise clear that \$3,100 in fines were being levied.
95. In respect of the 13 reno fines, I also find that:
- a. owner has been continuously in breach of many aspects of the renovation bylaw from the time that she began her strata lot renovation in November 2016,
 - b. all SPA section 135 procedural requirements regarding the owner's renovation bylaw breaches were satisfied by the August 2, 2017 delivery of council's decision. From that time on the strata was entitled to charge the owner's account with fines arising from her renovation bylaw breaches,
 - c. the repetition of the section 135 information in the September 14, 2017 letter from the strata to the owner did not have the effect of "restarting" the SPA section 135 procedural process which, as noted, had already been completed for the renovation bylaw breach complaints,
 - d. pursuant to bylaw 1, as it appeared in the 2016 bylaws, until June 20, 2017 the strata was entitled to charge \$100 for a bylaw breach and a \$50 monthly fine for each month of a continuing breach. After the amendment of bylaw 1 on June 21, 2018, the strata was entitled to charge an initial \$200 fine for a bylaw breach and further \$200 weekly fines for a continuing breach,
 - e. the strata made an error when it charged \$100 fines for May and June 2017, rather than the maximum \$50 monthly fine for a continuing breach. As a result, I exercise my discretion and reduce the \$100 May and June 2017 fines levied by council to \$50 for each of these months.

96. I order the owner to pay the 13 reno fines: 1 fine of \$100 for the initial renovation bylaw fine imposed for April 12, 2017, 2 fines of \$50 for May and June 2017 and 10 fines of \$200 for her continuing bylaw breach during the 10 week period July 1-September 12, 2017 (total \$2,200).
97. I also order the owner to comply forthwith in every respect with all of the strata's bylaws affecting renovations and alterations to the owner's strata lot.

Airbnb Breach Fines

98. The strata asks the tribunal to order the owner to comply with the strata's amended bylaw 7.3 Airbnb bylaw, as well as pay 15 fines of \$200 each for Airbnb bylaw breaches that occurred between June 21 and October 12, 2017 (total \$3,000; Airbnb fines).
99. At the time of the owner's purchase of her strata lot, there was no restriction on her ability to rent it out. As the renovation proceeded, the owner began renting it out on a short-term basis through Airbnb. The Airbnb bylaw came into effect on June 21, 2017. The strata says the owner breached the bylaw after this date and continues to breach it. The owner agrees. She asks to be excused from paying the resulting fines because she has had no choice but to breach the Airbnb bylaw for financial reasons, due to the strata's delay in approving her strata lot renovations.
100. Prior to deciding whether the 15 Airbnb fines are payable by the owner, it is important to examine whether the Airbnb bylaw itself is valid. In *The Owners, Strata Plan VR 164 v. Hawco*, 2018 BCCRT 134, a strata lot owner rented out his strata lot in contravention of a strata bylaw forbidding short-term rentals. The tribunal held that the owner's short-term rentals were not protected by SPA section 143(1), which exempts certain strata lots from a rental restriction bylaw. *Hawco, supra.*, relied upon the BC Supreme Court's decision in *High Street Accommodations Ltd. v. The Owners, Strata Plan BCS 2478*, 2017 BCSC 1039. That case decided that the SPA section 143 protection applies only to rentals of strata lots and not to the licencing of strata lots. Short-term rentals were held to be licences of strata lots, and not rentals. Therefore, as a general principle, strata

bylaws prohibiting short-term rentals are enforceable immediately upon their registration, because they are not classed as rental restriction bylaws under SPA section 141.

101. As in *Hawco, supra.*, I find that the SPA section 143(1) rental bylaw enforcement delay does not apply in respect of the strata's Airbnb bylaw, because the bylaw regulates the licencing of an owner's strata lot and not its rental. The strata was entitled to enforce the Airbnb bylaw at any time following its June 21, 2017 registration at the Land Titles Office.
102. The strata asks the tribunal to order the owner to pay the following 15 fines of \$200 each for the owner's continuing Airbnb bylaw breaches during the indicated periods (total \$3,000):
 - a. one July 1, 2017 fine for a breach on an unspecified date. The strata did not produce any evidence that the date of the initial bylaw breach was provided to the owner. However, 2 days earlier, on June 29, 2017, the strata sent the owner the section 135 information and a written warning that she must cease her short-term Airbnb enterprise immediately due to the June 21, 2017 Airbnb bylaw registration, or risk the imposition of fines of \$200 for an infraction and further \$200 weekly fines for a continuing bylaw breach (June 29 notice),
 - b. 4 fines of \$200 for 4 breaches June 21–August 31, 2017 (\$800 total fines; no specific dates given for the breaches). The September 14, 2017 letter described above (about the renovation bylaw breach fines), advised the owner of the breaches and that "council had approved 4 fines". On September 15, 2017, only \$500 of this \$800 sum was added to the owner's account. I find that the fines were inadvertently recorded incorrectly. The letter, upon which I rely, makes it clear that council had resolved to charge the owner with fines of \$800 for the period June 21-August 31, 2017,
 - c. 2 fines of \$200 for 2 breaches September 17–20, 2017 (\$400 total fines; no specific dates given for the breaches). A September 21, 2017 letter, in the

same format as the September 14, 2017 letter, advised the owner of the breaches and the fines she would be charged. On September 29, 2017, these fines were added to her account,

- d. 6 fines of \$200 for breaches September 22–October 12, 2017 (\$1,200 total fines; no specific dates given for the breaches). An October 12, 2017 letter, in the same format as the September 14 and 21, 2017 letters, advised the owner of the breaches and fines. On October 13, 2017, these fines were added to her account,

103. The section 135 information was repeated in the September 14, 21 and October 12, 2017 letters.

104. I agree with the parties that the owner breached the Airbnb bylaw between June 21 and October 12, 2017. Under amended bylaw 1, after June 21, 2017 the strata was entitled to charge a maximum \$200 fine for a bylaw breach and \$200 weekly fines for a continuing breach. That does not mean that it must charge weekly fines for continuing breaches. I find that not charging a fine for some weeks does not deprive the strata of authority to levy fines for continuing breaches during other weeks. The effect of the strata's letters to the owner is that it chose to exercise its discretion to fine for continuing Airbnb bylaw breaches during periods where Airbnb stays had been noted.

105. In 2 of the specified time periods, I find that the fines imposed are inconsistent with amended bylaw 1's limit of one fine weekly for continuing bylaw breaches:

- a. the strata claims 2 fines for the September 17-21, 2017 period; a time frame less than a week. I hold that only one \$200 fine can be charged by the strata for the September 17-20, 2017 period,
- b. it claims 6 fines for the period September 22-October 12, 2017; a period somewhat over 3 weeks. I hold that only 3 weekly \$200 fines can be charged by the strata for this period.

106. Did the strata meet the procedural requirements of SPA section 135 in respect of these Airbnb fines? For the following reasons, I find that the section was satisfied in respect of all of these fines, except the one charged on July 1, 2017:

- a. the June 29 notice provided the owner with the required particulars of the Airbnb bylaw breach complaint and the section 135 information. This June 29 notice applies to all of the 15 Airbnb fines charged to the owner,
- b. the interval between the June 29 notice and the July 24, 2017 hearing provided the owner with a reasonable opportunity to reply to the complaint. A section 135 procedural process was completed on August 2, 2017, when the owner was provided with council's decision. From that time on, the strata was entitled to fine her for her continuing Airbnb bylaw breach,
- c. the repetition of the section 135 information in the strata's September 14, 21 and October 12, 2017 letters to the owner about the Airbnb fines did not restart the formal SPA section 135 procedural process. I distinguish this case from *Hawco, supra.*, where the tribunal found that each short-term use of the owner's strata lot was a new breach of the strata's bylaw forbidding such use, meriting a fresh SPA section 135 procedural process,
- d. given my finding that the owner was using her strata lot to operate an ongoing Airbnb enterprise, it was not necessary for the strata to provide the exact dates upon which the owner made her strata lot available for Airbnb use. A requirement to give each date of Airbnb use would impose an unreasonable evidentiary burden on the strata, particularly in this situation where the strata lot's balcony door was left open on occasion to allow Airbnb clients to enter. The strata would have to maintain an unreasonable level of monitoring of who comes and goes from the owner's strata lot and why they have been there.
- e. the only one of the 15 fines recorded in advance of the July 24, 2017 hearing was the July 1, 2017 fine. I find that council made a procedural error when it levied this fine before hearing the owner's submissions at the hearing and

providing its decision. Pursuant to *Chateau Boulevard, supra.*, I find that the \$200 July 1, 2017 Airbnb fine is unenforceable because it was procedurally unfair.

107. In respect of the other 14 Airbnb fines, I find that the owner must pay 8 fines of \$200 each (\$1,600), calculated as follows:

- a. 4 fines for the period June 21-August 31, 2017 (1 fine for an initial breach and 3 fines for continuing bylaw breaches),
- b. 1 fine for the continuing breach during the period September 17-20, 2017,
- c. 3 fines for the continuing breach during the period September 21-October 12, 2017.

108. The strata is entitled to an order that the owner comply with the Airbnb bylaw. In particular, and without limitation, I find the owner to stop using her strata lot, or any portion of it, for short-term rentals, including those booked through “Airbnb” or in any other way that is contrary to the strata’s amended rental bylaw 7.

1.6 SPA Section 135(1)(b) Reimbursement of Bylaw Breach Costs

Remediation of Common Property

109. Pursuant to SPA section 135(1)(b), the strata asks the tribunal to order that the owner reimburse the strata for the 4 sums paid by the strata for the costs of remediating (repairing) damage to the strata’s common property caused by the owner’s breaches of renovation bylaw 6 (owners to be responsible for all damage caused to common areas by their trades or because of their alterations of common property):

- a. December 16, 2016 locksmith expense related to water leak from owner’s strata lot: \$115.50,
- b. December 20, 2016 invoice for water leak repair: \$178.50 (consented to by owner),

- c. September 7, 2017 carpet cleaning cost “from fire door to rear exit and deodorize due to urine stains and smell...”: \$134.40,
- d. October 2, 2017 junk removal costs for the removal of debris from the strata’s common property (rule 6): \$60.

110. I accept the owner’s consent to pay the 178.50 cost of repairing the water leak.

111. The remaining 3 amounts may only be properly charged to the owner once the strata has followed the SPA section 135 process. The strata did not provide any evidence that it followed section 135 in respect of them. Invoices for these expenses were produced during the adjudication, upon enquiry from the adjudicator. However, there was no evidence that these invoices, or equivalent information (and an opportunity to reply to it, including at a hearing), was provided to the owner before a remediation expense was added to her account. On this basis, I dismiss the strata’s claim for the owner to pay the other 3 remediation amounts claimed. It is not necessary for me to consider whether or not they are reasonably necessary expenses within the meaning of SPA section 133.

Reimbursement of Strata’s Collection Costs

112. Bylaw 11 requires an owner in default of payment of common expenses, strata fees, special levies, interest, fines and any other amount owing pursuant to the SPA (arrears) to reimburse the strata and hold it harmless against any and all costs and expenses required to collect such arrears, including legal costs, taxes, disbursements and other related expenses, as between a solicitor and his own client or on a full indemnity basis (collection costs).

113. The strata asks to be reimbursed for 5 collection costs incurred when it has tried to collect fees, special levies and other charges from the owner:

- a. September 1, 2017 for legal advice and services in relation to this claim: \$246.40,
- b. September 17, 2017 notarial expense regarding “city permit”: \$100,

- c. October 1, 2017 for legal advice and services related to the owner's tribunal claim: \$560.16,
 - d. January 2018 lien filing cost: \$153.48,
 - e. "extraordinary management fees", reflecting the cost paid by the strata to its strata management company for assistance with this claim: \$3,255.
114. Bylaw 11 is not clear about the legal authority for an owner's payment of these collection costs claimed under the bylaw. SPA section 133 says that a strata may do what is reasonably necessary to remedy a contravention of its bylaws or rules and require that the reasonable costs of remedying the contravention be paid by the owner. I find that bylaw 11 collection costs are remediation expenses within the meaning of section 133. They may only be charged to the owner's account if they are reasonable, provided the procedural protections of SPA section 135 have been met.
115. I dismiss the strata's claim for collection of the lien filing cost because, as is decided below, it is not a reasonable expense because it relates to a lien that I find to be invalid.
116. The strata did not provide any evidence that it followed section 135 in respect of the other 4 collection costs. Therefore, I dismiss its claim for the owner to pay them. It is not necessary for me to consider whether or not they are reasonably necessary expenses within the meaning of section 133. However, I later consider whether some of the strata's collection costs are recoverable as disputed-related expenses.

1.7 Significant Unfairness of Charges Otherwise Payable?

117. I have found some fees and fines charged to the owner by the strata are payable by her pursuant to the SPA. She asks the tribunal to reverse charges otherwise payable because they are significantly unfair in other ways, unrelated to the SPA. She has the burden of establishing that the strata's actions meet this test.

118. Firstly, the owner says that the strata's actions were significantly unfair because it pursued her for trifling matters that did not merit a charge. Except as is noted in these reasons, I find that the evidence reflects that the strata levied charges against the owner that, overall, were reasonable given the actual events that took place. They were not imposed for trifling reasons.
119. The owner also says that the strata frustrated her renovation in a significantly unfair manner by unreasonably insisting upon detailed information about her proposed renovations in a manner that went beyond its authority in the strata's bylaws. After reviewing the evidence of both parties, I find that the strata's request for information about the proposed renovations was a reasonable exercise of its SPA section 3 discretion to act in the interests of the strata as a whole. It did not unreasonably withhold its approval of alterations, as prohibited by SPA Standard Bylaw 5(2).
120. I have found that the strata made inadvertent calculation errors in preparing the June 12, 2018 account and in some of its correspondence to the owner. Where necessary, I have adjusted the related charges to allow for fairness and correctness. I find these errors have not resulted in any significantly unfair consequence for the owner that has not been addressed in this decision.
121. Did the strata act in a significantly unfair manner when it conducted inspections of her strata lot and took pictures during the inspections? I find that the evidence reflects that the strata acted correctly when giving notice of inspections and conducting them pursuant to SPA Standard Bylaw 7.1. Various pictures taken during by the strata during inspections were provided in evidence. I found none of them to be untoward or intrusive. I find that it was reasonable for the strata to take those pictures necessary to create a record of what was observed during an inspection.
122. The owner makes references to the strata's personal harassment of her throughout her submissions. For example, she says that strata representatives

spoke rudely to her and to her trades workers during an inspection and, overall, acted in a personally harassing manner.

123. As further evidence of this personal harassment by the strata itself, the owner provided a letter from another owner in the strata complex, Ms. L.. This letter states that the strata's council has a history of bullying owners and abusing its power. In response, the strata says that Ms. L. has a history of conflict with council over many issues and is not objective in her assessments about its conduct. After considering the evidence, including this letter, I am not persuaded that the strata personally harassed the owner. I observe that it demonstrated considerable courtesy and forbearance when faced with the owner's defiant, often vulgar, responses to reasonable requests. She has not established that she was treated in a personally harassing manner overall.
124. I do not find that the effect of the strata's actions in any of these instances was burdensome, harsh, wrongful or lacking in fair dealing. I dismiss the owner's claim that any of the strata's fees and charges otherwise payable by her should be cancelled because of the strata's overall significantly unfair conduct.

1.8 Summary of Charges to be Paid by Owner

125. I have set out those charges that are properly payable by the owner and disallowed others due to the strata's procedural and substantive errors. The owner agreed to pay some of them. I find that, before consenting, she had an opportunity to review the strata's evidence regarding the charges. I am satisfied that she makes an informed, reasonable decision when agreeing to pay some amounts.
126. Within 60 days of the date of this decision or the sale of the owner's strata lot, whichever occurs first, I order the owner to pay the strata the amount of \$6,559.71, which is the total of the following consent and adjudicated amounts:

- a. \$2,534.71 by consent, consisting of:

June 2017 strata fees

218.86

4 special levies	1,987.35
Move In/Move Out fees	100.00
November 30, 2017 Form K fine	50.00
December 20, 2016 water leak repair	<u>178.50</u>
Subtotal payable by consent	\$2,534.71

b. \$4,025.00 pursuant to my orders made above, consisting of:

4 Move In/Move Out fees	200.00
March 18, 2018 NSF charge	25.00
Renovation fines	2,200.00
Airbnb fines	<u>1,600.00</u>
Subtotal payable by order	\$4,025.00
(Total: \$2,534.71 + \$4,025.00 = \$6,559.71)	

ISSUE 2. Should the owner's other requests be granted?

127. The owner asks the tribunal to order the strata to do 2 further things: provide her with a letter of permission to renovate her strata lot and order the strata to compensate her for her other claimed losses resulting from its actions.

2.1 Letter of Permission to Renovate

128. The owner asks the tribunal to order the strata to issue a retroactive letter of permission to renovate her strata lot, in accordance with the renovations originally proposed. I understand that these are now substantially completed. She did not

provide evidence about why this step should be ordered. The strata has taken no position on this aspect of the owner's claim. I find that the owner has not met the burden upon her of establishing the foundation or merits of such an order. I decline to make it.

129. However, the municipal authority has revoked the building permits provided to the owner on April 12, 2017. The renovations remain unauthorized and unapproved by the municipality. In my view, it is important that this be corrected. As a first step, there must be an opportunity for a municipal inspection of the renovated strata lot, to ensure that it is renovated in accordance with municipal building requirements. Council must be entitled to have representatives attend the inspection. Once the strata is satisfied the alterations meet with municipal approval, it should approve them.
130. Keeping in mind the tribunal's mandate to recognize ongoing relationships between the parties and to assist them in complying with the bylaws, I make the "municipal compliance" order specified below.

2.2 Compensation for Financial Losses and Harassment

131. The owner asks the tribunal to order that the strata pay her compensation for its wrongful actions in the total amount of \$41,550, consisting of:
- a. \$2,000 for harassment (\$1,000 for harassment by other strata lot owners and \$1,000 for harassment by the property manager),
 - b. \$22,800 for one year's lost rental income, calculated at the rate of \$1,900 income per month,
 - c. \$15,000 for 6 months loss of investment income,
 - d. \$1,750 for loss of the use of her storage unit for a 6 month period.

Harassment Damages Payable by Other Residents and Property Manager

132. The owner claims general damages of \$1,000 for harassment by “other residents of the building and \$1,000 for harassment by the property manager”. Only the strata was named as a respondent to the owner’s claim. She did not individually name the other strata lot owners or the property manager as respondents.
133. Tribunal Rules 93 and 105, in effect at the time this dispute commenced, permits a facilitator to recommend that additional parties be added to a dispute at any time prior to the dispute being referred for adjudication. Once in the adjudication phase, additional parties can be added with the consent of the tribunal. If a party is added, they must be given an opportunity to review the claim and the evidence, make submissions, attempt settlement, bring a claim of their own against the owner and seek legal advice if they so choose. No application was made to me to add the other strata owners or property manager as parties. I find that I do not have the jurisdiction to make orders against individuals who are not parties to the dispute. I dismiss this aspect of the owner’s claim.

Damages for Financial Loss

134. The owner claims that the strata’s actions have caused her significant financial loss in various ways. They are reviewed below.

Effect of Lien on Financial Loss

135. On December 15, 2017 the strata filed a certificate of lien (lien) pursuant to SPA section 116(1) against the title to the owner’s strata lot. The filing of the lien figures prominently in the owner’s submissions as being a primary cause the financial losses she has suffered because of the strata’s actions. The lien states that a total of \$3,190.94 was due from the owner on December 14, 2017 (face amount). This face amount included some 3% interest charges on unpaid fees and special levies. The face amount also includes some fines and remediation expenses claimed by [- the strata to be payable by the owner and the strata’s legal costs associated with the filing of the lien.

136. The owner says that this lien was registered by the strata without reasonable cause and that the strata filed it to harass her and cause her financial harm. She wants to sell her strata lot to realize on her investment. However, she says that potential buyers are not interested in the property once they become aware of the lien registered against the strata lot's title. The strata says that the lien is valid and had no effect upon the owner's ability to sell her strata lot.
137. In order to decide whether or not the filing of the lien is evidence of the owner's harassment by the strata, it is necessary to examine whether the lien was properly registered. I find that it is invalid, for the reasons explained below.
138. Prior to filing a lien, SPA section 112(2) requires that a strata must give the owner at least 2 weeks written notice to pay the sum due and notice that a lien may be registered if payment is not made within the 2 week period. SPA section 61(3) says that 4 further days may be required in order to effect delivery of a notice. The strata provided evidence that it sent the owner 2 written demands regarding her unpaid fees. However, neither notice complied with sections 112(2) and 61(3). The first notice, sent on June 29, 2017, failed to set the required 2 week period for payment. The second notice was sent on December 17, 2017, 2 days after the lien's registration, rather than after a period of time that allowed for the combined effect of sections 61(3) and 112(2). I find that the filed lien is invalid for this reason alone.
139. Further, the lien requires the strata corporation to certify that the face amount claimed in the certificate is owing to the strata corporation pursuant to SPA section 116. If the amount claimed is overstated, the lien is invalid. I find that the face amount of the lien was overstated for 3 reasons:
- a. the face amount included accumulated interest at the strata's bylaws' unlawful 3% interest rate on the owner's unpaid strata fees and special levies,

- b. the face amount includes some fines and remediation costs levied against the owner by council. SPA section 116 does not permit such charges to be added to the lien face amount, and
 - c. the lien includes a statement that SPA section 118 costs are being claimed in addition to the face amount of the lien. Section 118 permits a strata corporation to recover its reasonable legal fees, land title and registry charges and other reasonable disbursements for the filing and enforcement of the lien (*The Owners, Strata Plan KAS 2428 v. Emma Baettig*, 2017 BCSC 377). These legal expenses are collectable in addition to the face amount of the lien, as they are not known at the time that the lien is filed. They should not be included in the certificate of lien (*Strata Plan BSC 3372 v. Manji*, 2015 BCSC 2503 at para.96).
140. I conclude that, on the date that the lien was registered, the maximum face amount of the lien was \$2,206.21 (total of the unpaid strata fees and special levies). In this case, the strata filed a lien with a face amount of \$3,190.94 rather than the maximum amount of \$2,206.21 due under SPA section 116(1) on December 15, 2017.
141. As the lien is invalid, it must be discharged, at no cost to the owner. The strata is entitled to file a new certificate in the correct amount in accordance with SPA section 116 (*Strata Plan VR386 (The Owners) v. Luttrell*, 2009 BCSC 1680 (Master)).
142. Did the strata act in a significantly unfair manner in some other way towards the owner when it filed the lien? There is no objective evidence that she suffered financial loss because it had been filed, that the face amount was deliberately miscalculated or that the SPA section 112(2) notice errors were made in order to harass her. I find that the errors made by the strata in filing its lien were inadvertent. The remedy is for it to be removed from the owner's title.

Rental Income Loss

143. The owner states that, if council had quickly provided her with the desired letter of permission to renovate her strata lot, she could have completed the renovations earlier. It would then have swiftly been rented out at the rate of \$1,900 monthly, earning \$22,800 in total income within a year. She asks the tribunal to order she be awarded damages in this amount, to compensate her for this loss.
144. The owner's evidence regarding this lost rental income consisted solely of her own statements about what she believed would have been the outcome of efforts to rent her unit once renovated. She has not specified the dates during which she was deprived of the right to rent her strata lot at the increased rent.
145. There is also no evidence that the strata knew or ought to have known that the owner intended to renovate or rent her strata lot at all. For the strata to be liable for lost rental income, it must have an obligation to safeguard the owner's ability to rent out her strata lot, a proven breach of that obligation and a reasonably foreseeable loss caused by the breach of the obligation. This is the owner's claim. She must prove these factors on the balance of probabilities. I find that the evidence filed does not establish them. I dismiss this aspect of her claim.

Investment Income Loss

146. The owner states that, if council had quickly provided her with the desired letter of permission to renovate her strata lot, she could have completed the renovations quickly and earned investment income of \$15,000 over a 6 month period. She asks the tribunal to order that the strata pay her damages in this amount, to compensate for this loss.
147. The owner has not provided any evidence about how she calculated this sum, the period during which she sustained this loss or objective evidence of it.
148. This aspect of the owner's claim is like her claim for rental loss above. As with the claim above, for the strata to be liable for lost investment income, it must have a duty to safeguard the owner's investment, must breach that duty and cause foreseeable, provable loss. I find that she has not met the burden of proof upon

her to establish that these factors exist in this situation. I dismiss this aspect of her claim.

Loss of Use of Storage Locker

149. The owner seeks an order that the strata pay her the sum of \$1,750 in damages because she did not have use of her strata lot's designated storage locker for a 6 month period.
150. Both parties provided evidence in respect of this aspect of the owner's claim. I found the owner's evidence to be confusing and inconsistent. Where there is inconsistency, I rely upon the strata's evidence in making the summary that follows, as I found it to be more reliable than the owner's evidence.
151. The owner's designated storage locker is in the general storage room that forms part of the strata's common property. In approximately May 2017, the owner advised the strata that she had lost her key to the storage area. She requested another. Council declined, on the basis that it was concerned about the security of the storage area. Its concerns stemmed from the fact that unknown individuals, appearing to be trade-persons, had been observed accessing the owner's storage locker and appeared to have a key to the general storage area. Council wished to avoid any further storage area keys going into circulation, so it arranged for the owner to be let into the storage room, so she could access her individual locker. By July 2017, the owner was observed to have resumed use of her locker. The strata does not know how or where she obtained a new key to the general storage area.
152. I find that the evidence supports that the strata acted reasonably overall when managing this lost key issue. There was no substantive unfairness in its conduct. Further, the owner did not provide dates during which she was deprived of the use of her locker nor how she calculates the \$1,750 in damages for the loss of use. I find that she has not established the facts that satisfy the burden of proof upon her to support this aspect of her claim for damages. I dismiss it.

ISSUE 3. Should the strata's other requests be granted (restoration of strata lot to pre-renovation condition; owner to provide a letter of apology)?

3.1. Should the owner's unauthorized renovations to her strata lot be removed and the strata lot be restored to its pre-renovation condition?

153. The strata seeks an order requiring the owner to restore her strata lot to its pre-renovation state. The owner's evidence is that the strata lot's pre-renovation condition was poor, and the kitchen contained mold. Post-renovation pictures provided by the strata illustrate a clean, renovated, serviceable space.

154. The strata provided no evidence about how, in practical terms, the owner could go about the restoration, or how the strata as a whole would benefit from such restoration being undertaken.

155. As noted, a strata corporation's duty under SPA section 3 is to manage and maintain the common property in the best interests of all strata owners. The strata bears the burden of proof that, on the balance of probabilities, it is in the best interests of the strata as a whole to remove all of the owner's renovations and that it is reasonably possible to return the strata lot to its original condition. The strata provided no evidence on either of these points. I order that this portion of its claim be dismissed.

3.2. Letter of apology

156. The strata asks the tribunal to order the owner to provide a letter of apology admitting her improper conduct and ask for the strata's forgiveness. It did not make any submissions or provide any evidence regarding the benefit to the strata that would flow from the receipt of such a letter.

157. The owner's evidence and submissions frankly admit her forgery of 2 council members' signatures on the strata's March 2, 2017 draft letter of permission submitted to the municipality. This admission, and the tribunal's confirmation of the forgery, remove any doubt about the owner's wrongdoing. I am not persuaded that

an order for the owner to provide the strata with a letter of apology will benefit it in any tangible way. I decline its application for the owner to provide such a letter.

ISSUE 4: COSTS

158. Under section 49 of the Act, and the tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable expenses related to the dispute resolution process.
159. In this dispute, the owner was successful in obtaining orders dismissing some of the fees, fines and remediation expenses levied by the strata against her. She was unsuccessful in her application for dismissal of other charges, as well as her other claims.
160. The respondent strata was unsuccessful in obtaining orders for enforcement of some charges levied against the owner and in obtaining orders that the owner restore her strata lot to its original condition or issue a letter of apology. It was successful in obtaining orders for enforcement of some other charges levied against the owner and in obtaining an order compelling her to have her strata lot inspected and brought into conformity with municipal bylaws. Upon the strata's application, she also has been ordered to obey the strata's bylaws and rules, particularly those in respect of alterations to strata lots and using her strata lot to provide short-term accommodation.
161. Overall, I find that the strata is the more successful party. I order the owner to reimburse the strata for tribunal fees of \$125.
162. Section 49(1)(b) of the Act also authorizes the tribunal to order that a party be paid any other reasonable expenses and charges that the tribunal considers to directly relate to the conduct of the proceeding.
163. The owner did not apply for the strata to pay any such charges. However, the strata has applied for the owner to pay the 5 legal expenses listed as bylaw 11 collection costs earlier in this decision. As a result, I must decide whether the

strata, as the more successful party, may recover these collection costs pursuant to the Act section 49(1)(b).

164. Earlier in these reasons, I found that the collection expenses claimed by the strata pursuant to bylaw 11 were remediation costs within the meaning of SPA section 133. I dismissed the strata's claim for them because the strata tried to collect them without following the SPA section 135 procedure. Despite being dismissed as recoverable remediation costs, they may still be recoverable as they are expenses and charges directly related to the conduct of this proceeding.
165. In deciding whether the collection costs are recoverable under the Act section 49(1)(b), I must take tribunal rule 132 into account. It says that "except in extraordinary cases, the tribunal will not require any party to pay another party any fees charged by a lawyer...in the tribunal dispute process". Does this situation qualify as an extraordinary case? I find that it does, for 2 reasons:
 - a. the extraordinary circumstances of the owner's forgery, which directly contributed to of the unusual scope and complexity of this dispute, and
 - b. the existence of bylaw 11, which confirms the strata's decision that an owner who causes collection costs to be incurred will fully indemnify the strata for those costs on a solicitor and own client basis.
166. Having decided that extraordinary circumstances exist in this situation, I must consider whether the various collection costs claimed by the strata are reasonable expenses and charges directly related to the conduct of the proceeding.
167. I dismiss the strata's requests for the owner to pay the following collection costs, for the reasons set out:
 - a. the September 17, 2017 notarial expense of \$100 regarding "city permit", is disallowed because no evidence was provided about how this expense is a reasonable charge directly related to the conduct of the proceeding,

- b. January 2018 \$153.48 lien filing cost is disallowed, due to the fact that the lien it relates to is invalid,
 - c. the sum of \$3,255 paid by the strata to its strata management company for “all matters pertaining to...this claim”. This sum was posted to the owner’s account on June 12, 2017, late in the tribunal process. It gives some brief details of what was done at a rate of \$100 per hour for 31 hours of time. No evidence was provided about the necessity of this expense. I find that the strata has not met the burden upon it to establish that this management company expense is a reasonable charge directly related to the conduct of the proceeding.
168. I find that 2 of the strata’s collection charges are reasonable expenses and charges that directly relate to the proceedings’ conduct: the charges for the strata’s legal services obtained on September 1 (\$236.40) and October 1, 2017 (\$560.16). Therefore, pursuant to the Act section 49(1)(b), I order that the owner pay the strata the resulting total sum of \$806.56.
169. The strata is entitled to receive pre-judgement interest pursuant to the *Court Order Interest Act* on the sum of \$6,559.71 owed by the owner for outstanding fees, fines and the remediation expense. I find it is appropriate for this to be calculated from March 19, 2018, the day after the last allowable charge (\$25.00 NSF fee) was posted to her account, to the date of this decision. I calculate the pre-judgement interest amount to be \$45.85.

DECISION AND ORDERS

170. I order that the owner applicant, Emily Wadler to:
- a. forthwith stop using her strata lot or any portion of it for short-term accommodation purposes, including but not limited to the short-term rentals booked through the online marketing business commonly known as “Airbnb,”, or in any other way contrary to strata bylaw 7,

- b. forthwith conform to the strata's renovation bylaw 6, including by cooperating with the strata's reasonable requests for documentation about a proposed or completed renovation or alterations to her strata lot,
- c. fully cooperate with any inspection of her strata lot conducted by the strata pursuant to SPA Standard Bylaw 7,
- d. otherwise abide by the strata's bylaws,
- e. within 60 days of the date of this order or the sale of the owner's strata lot, whichever comes first, pay the strata the total amount of \$7,539.12 consisting of the following:
 - i. \$6,559.71 for fines and fees owed to the strata,
 - ii. \$125.00 for tribunal fees,
 - iii. \$806.56 for expenses pursuant to the Act section 49(1)(b),
 - iv. pre-judgement interest of \$45.85 under the *Court Order Interest Act*, R.S.B.C. 1996, c. 79, as amended.

171. The strata is entitled to claim post-judgement interest, as applicable.

172. To ensure the owner's compliance with municipal and strata bylaws, I order the parties to conform with the following municipal compliance order:

- a. within 14 days of the date of this order, the owner will provide the strata with a list of all alterations to her strata lot completed from the time that she became its registered owner and a second list of those alterations she still seeks to complete, if any. This second list will be restricted to alterations listed in the strata's March 2, 2017 draft letter of permission,
- b. within 3 days from delivery of these 2 lists, the owner will provide a copy of this order to the municipality and apply for and schedule a municipal inspection of her strata lot. She will give the strata a minimum of 7 days

advance written notice of the time and date of the inspection. The owner, and any reasonable number of representatives that the strata may choose, may attend the inspection,

- c. if, upon inspection, the municipality requires remediation of any defects in the owner's strata lot, the owner will forthwith remediate the defects at her own cost, utilizing only licenced, insured tradespersons approved in writing in advance by the strata. Following remediation, the owner will forthwith arrange such further municipal inspections as may be necessary to ensure compliance with the municipality's bylaws upon the same terms as are set out in the paragraph immediately above,
- d. if, for any reason, the owner does not satisfy the municipality's requirements for remediation of defects in her strata lot within 6 weeks of receipt of a notice of defects from the municipality, the municipality's defect notice will be deemed to be a work order and the provisions of SPA sections 84 and 85 will apply,
- e. the owner and the strata will keep each other informed about the inspection process and the remediation of defects, if any, and provide the other with copies of all documents provided to or by the municipality in respect of her strata lot renovations and the inspection process, including any permits, defect notices or occupancy certificates issued by the municipality in respect of the owner's strata lot,
- f. the strata will approve the owner's strata lot renovations forthwith after receiving the municipality's written approval of the owner's renovations to her strata lot,
- g. the parties may agree in writing to changes to the process set out above, to the extent that any agreed changes comply with municipal and strata bylaws.

173. Under SPA section 189.4, an owner who brings a tribunal claim against a strata corporation is not required to contribute to the expenses of defending that claim. I

order the strata to ensure that no part of the strata's expenses with respect to defending this claim are allocated to the owner.

174. Under section 57 of the Act, a party can enforce this final tribunal decision by filing, in the Supreme Court of British Columbia, a validated copy of the order which is attached to this decision. The order can only be filed if, among other things, the time for an appeal under section 56.5(3) of the Act has expired and leave to appeal has not been sought or consented to. Once filed, a tribunal order has the same force and effect as an order of the Supreme Court of British Columbia.

175. Orders for financial compensation or the return of personal property can also be enforced through the Provincial Court of British Columbia. However, the principal amount or the value of the personal property must be within the Provincial Court of British Columbia's monetary limit for claims under the *Small Claims Act* (currently \$35,000). Under section 58 of the Act the respondents can enforce this final decision by filing in the Provincial Court of British Columbia a validated copy of the order which is attached to this decision. The order can only be filed if, among other things, the time for an appeal under section 56.5(3) of the Act has expired and leave to appeal has not been sought or consent to. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Kathryn Berge, Tribunal Member