



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Grant v. The Owners, Strata Plan LMS 1107*, 2019 BCCRT 114

B E T W E E N :

Herbert Grant

APPLICANT

A N D :

The Owners, Strata Plan LMS 1107

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Lynn Scrivener

INTRODUCTION

1. This dispute is about a disagreement that arose out of the sale of tickets to a Christmas function. The applicant, Herbert Grant, says that the respondent, The Owners, Strata Plan LMS 1107 (strata), took unwarranted and punitive actions against him. The strata disagrees with the applicant's position.

2. The applicant is self-represented. The respondent is represented by a member of the strata council.

JURISDICTION AND PROCEDURE

3. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over strata property claims brought under section 121 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear 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.
5. 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.
6. Under section 123 of the Act and the tribunal rules, in resolving this dispute the tribunal may make 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.

ISSUES

7. The issues in this dispute are:
 - a. whether the applicant is entitled to a determination that the strata violated his rights and disciplined him without authority;

- b. whether the applicant is entitled to an order that the strata's December 8, 2017 letter be rescinded and destroyed, along with any other letters, notes or files concerning the incident; and
- c. whether the applicant is entitled to a determination that the strata did not follow its own rules, policies and procedures.

BACKGROUND AND EVIDENCE

- 8. The applicant bears the burden of proof on a balance of probabilities. Both parties provided submissions and evidence in support of their respective positions. Although I have read all of this information, I will refer only to that which is necessary to provide context to my decision.
- 9. The strata is located in Surrey, British Columbia and is comprised of 5 separate buildings. The applicant purchased a strata lot in 2012.
- 10. The strata filed consolidated bylaws at the Land Title Office on April 24, 2017. Bylaw 21 provides that owners may attend meetings of the strata council as observers. Bylaw 20 states that an owner may request a hearing at a council meeting. According to bylaw 44, except for emergencies, all communications with the strata council must be made in writing, and at least 10 days prior to the council meeting at which consideration of a matter is required.
- 11. The bylaws also contain, at Division 7, a voluntary dispute resolution process. As set out in bylaw 49, a dispute among any combination of owners, occupants, tenants, and the strata may be referred to a dispute resolution committee if all of the parties consent, and if the dispute involves the Strata Property Act (Act), the regulations, the bylaws or the rules.
- 12. Each year, the strata's Social Committee organizes a Christmas function. Sign-up sheets are posted in each of the strata's buildings for owners to indicate their interest in attending. Those owners are given an opportunity to buy tickets later.

13. An informal meeting of the strata council occurs each Thursday morning. Official meetings of the strata council occur once per month, with a formal agenda and minutes. The applicant is not a member of the strata council.
14. The applicant attended the informal council meeting on November 30, 2017. While there, he overheard a discussion between 2 council members about the Christmas function and the fact that tickets were sold out. One member stated that she had saved 2 tickets for the other member, who had signed up for tickets but had been on vacation when the tickets were on sale. The applicant became upset and expressed the view that the process for ticket sales was not fair to all owners. He made statements about his views of the incompetence of the Social Committee and other derogatory comments. This resulted in a verbal exchange with members of the strata council, during which the applicant is said to have raised his voice. The strata council advised the applicant that the issue did not need to be discussed further, but he could put any concerns in writing and they would be discussed at the next formal meeting of the strata. The applicant left the meeting.
15. The strata council asked the property manager to write to the applicant about this incident. The property manager wrote to the applicant on December 8, 2017. This letter stated that the applicant had been “verbally abusive” at the November 30, 2017 meeting and that his “bullying behavior” was unacceptable. The property manager requested that the applicant provide a written apology for his behaviour, and advised the applicant that, going forward, he would not be permitted to speak to the strata council without first submitting a request in writing. The letter advised the applicant that he could request a hearing on the matter.
16. The applicant offered his apology in a December 13, 2017 letter. In a December 14, 2017 letter, he requested a hearing. This was held on January 18, 2018. The strata’s decision was communicated to the applicant in a January 22, 2018 letter from the property manager. While the strata council stood by their previous letter, they considered the matter to be closed. No penalty or fine was contemplated or assessed against the applicant.

17. The applicant commenced this dispute with the tribunal in March of 2018.

POSITION OF THE PARTIES

18. The applicant says that the strata has not provided examples of bullying or abusive behaviour and had no authority to discipline him. The applicant also says that the strata violated his rights. According to the applicant, the December 8, 2017 letter is negative, authoritarian and inflammatory and limits the way he may address council going forward. The applicant's position is that tickets to the Christmas function should have been provided to him and that the strata should have made him aware of the possibility of voluntary dispute resolution, as he would have taken advantage of this procedure had he known about it.

19. The applicant requests that I order the strata council to rescind the December 8, 2017 letter and to destroy all documentation related to the incident. He also asks for determinations that the strata had no authority to discipline him, violated his rights, and did not follow its own rules, policies and procedures.

20. The strata says that the December 8, 2017 letter was not a discipline letter as it did not impose or threaten to impose any penalty. The strata says that, although a voluntary dispute resolution process would have been a waste of time in the absence of penalty or discipline, it would have accommodated the applicant if he made a request in this regard. The strata denies that it has limited the applicant's right to address council or observe strata meetings in accordance with the bylaws. The respondent requests that I dismiss the applicant's claim.

ANALYSIS

Tickets for the Christmas Function

21. The applicant's view is that the process for obtaining tickets to the Christmas function did not treat all owners equally. The applicant did not dispute the strata's evidence that he had not put his name on a sign-up sheet. Although the applicant pointed out that the advertised deadline to purchase tickets was December 1, 2017,

he did not state that he was somehow prevented from attending to purchase tickets on the dates that they were available for sale.

22. Although the applicant may have been disappointed about the fact that the tickets to the Christmas function were sold out, there is no indication in the evidence that he did not have an opportunity to purchase tickets, or that the process was somehow unfair or discriminatory. The fact that one strata council member “saved” tickets for another owner who had signed up to receive them does not alter this conclusion.
23. The applicant states that there was lots of room for extra people at the function, and that he could have been accommodated by printing extra tickets and ordering additional meals. However, he provides no evidence to support his assertion. In any event, the evidence establishes that one of the council members offered the applicant her tickets. Had the applicant accepted this offer, he could have attended the function. I am not satisfied that there was inequity in the ticketing process, or that any of the strata’s rules, bylaws or procedures were offended by this process.

The December 8, 2017 Letter

24. The December 8, 2017 letter communicated the strata’s view that the applicant was “verbally abusive” at the November 30, 2017 meeting, and that his “bullying behavior” was not acceptable. It asked for an apology and set out expectations for future interactions. As noted by the applicant, the December 8, 2017 letter does not reference any rule or bylaw.
25. Although I accept that the applicant does not agree with how the strata characterised his behaviour, I do not find that the December 8, 2017 letter amounted to a discipline letter. I agree with the strata that it did not impose or threaten to impose any penalty, despite the reference to section 135 of the SPA. I am not satisfied that a discussion of behavioural expectations amounts to discipline.
26. The applicant also expressed concern that the letter somehow limited his rights in terms of addressing the strata council. The letter advised the applicant that, going forward, he would not be permitted to speak to the strata council without first

submitting a request in writing. The requirement of providing notice of an issue in writing prior to a meeting is consistent with bylaws 20 and 44. Further, as noted by the strata, bylaw 21 allows an owner to observe a meeting, but does not convey any right to address the meeting.

27. While the applicant's view of the strata's practices may be that they were less formal, statements from members of the strata council indicate that there was an expectation that owners provide written notice if they wished to address the council. The bylaws provide a clear procedure for attending and addressing meetings of the strata council. I find that the December 8, 2017 letter served to advise the applicant of these procedures, and did not limit his interaction with the strata council.
28. The applicant requested an order that the December 8, 2017 letter be rescinded and it and other documentation about the incident to be destroyed. I find that this letter is not inappropriate or defamatory and, as noted above, I have determined that it is not a disciplinary letter. While the applicant may disagree with it, I do not find that the strata's December 8, 2017 letter should be rescinded.
29. In any event, the SPA prevents the destruction of the letter, as well as the applicant's response to it, at this time. Section 35 of the SPA governs the records that must be prepared and maintained by a strata corporation. Section 35(2)(k) requires the strata to retain copies of all correspondence sent or received by the strata corporation and council. Section 4.1 of the *Strata Property Regulation* requires that correspondence be retained for at least 2 years. As such, I decline to make an order that the December 8, 2017 letter or other documentation be destroyed.

The Voluntary Dispute Resolution Process

30. The applicant says that the strata should have advised him of the availability of the Voluntary Dispute Resolution Process, and states that he would have taken advantage of this procedure had it done so.

31. Bylaw 49 requires that a dispute must involve the SPA, the regulations, the bylaws or the rules in order for it to be referred to a dispute resolution committee. I am not persuaded that this dispute involves any of these. Further, even if the dispute was appropriate for referral to the process, I am not satisfied that the strata had an obligation to inform the applicant of this process or otherwise offer it to him. The availability of the process is clearly set out in the bylaws, and there is no indication that the applicant did not have access to them.
32. I would point out that the applicant did have the benefit of a hearing, even if it did not end with his preferred result. I am not satisfied that the provision of a hearing under section 135 of the SPA amounted to a failure on the part of the strata to follow its own rules, policies and procedures.
33. I acknowledge the applicant's dissatisfaction with his interaction with the strata council. However, I do not find that the strata disciplined him, or acted in a manner that was unfair or contrary to the bylaws or any rules or procedures. Accordingly, I decline to make the orders or determinations requested by the applicant.

TRIBUNAL FEES AND EXPENSES

34. Under section 49 of the Act and the tribunal rules, the tribunal generally will order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. The applicant requested reimbursement of \$250.00 in tribunal fees and \$20.00 in dispute-related expenses. The strata did not claim any fees or expenses. As the applicant was not successful, I decline to make an order for reimbursement of the fees or expenses he claimed.
35. The strata must comply with the provisions in section 189.4 of the SPA, such as not charging dispute-related expenses against the owner.

DECISION AND ORDERS

36. I dismiss the applicant's claims and this dispute.

Lynn Scrivener, Tribunal Member