Civil Resolution Tribunal

Date Issued: October 22, 2019

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Civil Resolution Tribunal

Indexed as: *Chan v. Gibb et al*, 2019 BCCRT 1210

B E T W E E N :

JENNIFER CHAN

APPLICANT

A N D :

BRANDY GIBB, JEAN-LUC PILLIARD, and The Owners, Strata Plan VR 1743

RESPONDENTS

REASONS FOR DECISION

Tribunal Member: Kate Campbell

INTRODUCTION

1. This dispute is about renovation noise and disruptions.

2. The applicant, Jennifer Chan, owns strata lot 3 (SL3) in the respondent strata corporation, The Owners, Strata Plan LMS 1178 (strata). Jean-Luc Pilliard owns strata lot 4 (SL4). Brandy Gibb is Mr. Pilliard's spouse. Although she is not a registered owner of SL4, for convenience I will refer to Mr. Pilliard and Ms. Gibb as "the SL4 owners" in this decision.

3. The applicant is self-represented in this dispute. Mr. Pilliard represents himself and Ms. Gibb. The strata is represented by the strata council president, AS.

4. SL4 is located immediately above SL3. The applicant says that major renovations in SL4 took an excessively long time, and caused unreasonable noise and damage to her strata lot. She seeks $10,000 in damages for loss of use and enjoyment of her strata lot, mental distress, and lost rental income. The applicant also seeks orders that the SL4 owners immediately stop the renovation-related noise and disruptions, and that the strata enforce its nuisance bylaw.

5. The SL4 owners dispute the applicant's claims. They say they had the required permits to renovate, and that the applicant's claims are invalid because the strata council has not yet held a hearing on the matter.

6. The strata says it has taken steps to enforce its bylaws.

JURISDICTION AND PROCEDURE

7. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over strata property claims under section 121 of the *Civil Resolution Tribunal Act* (CRTA). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The tribunal must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the tribunal's process has ended.

8. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, or a combination of these. Some of the evidence in

this dispute amounts to a "she said, they said" scenario. Credibility of interested witnesses, particularly where there is conflict, cannot be determined solely by the test of whose personal demeanour in a courtroom or tribunal proceeding appears to be the most truthful. The assessment of what is the most likely account depends on its harmony with the rest of the evidence. In the circumstances here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the tribunal's mandate that includes proportionality, I find that an oral hearing is not necessary. I also note that in *Yas v. Pope*, 2018 BCSC 282 at paragraphs 32 to 38, the BC Supreme Court recognized the tribunal's process and found that oral hearings are not necessarily required where credibility is in issue.

9. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The tribunal may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.

10. Under section 123 of the CRTA 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, or order any other terms or conditions the tribunal considers appropriate.

Preliminary Issue

11. The applicant provided evidence about noise from SL4 that occurred after she filed her Dispute Notice on March 20, 2019. Because those events started after she filed her claim, I make no findings about them in this decision. It is open to the owner to file a new dispute about any ongoing nuisance claims or bylaw violations.

ISSUES

12. The issues in this dispute are:

    a. Are the applicant's claims invalid because the strata council had not yet held a hearing at the time she filed her dispute?

b. Must the strata or the SL4 owners obtain an engineering report on structural damage to the applicant's strata lot, and pay for any recommended repairs or noise mitigation?

c. Must the SL4 owners stop the renovation-related noise and disruptions?

d. Did the strata fail to enforce its nuisance bylaw against the SL4 owners?

e. Is the applicant entitled to $10,000 in damages?

EVIDENCE AND ANALYSIS

13. I have read all of the evidence provided but refer only to evidence I find relevant to provide context for my decision. In a civil proceeding such as this, the applicant must prove her claims on a balance of probabilities.

14. The evidence shows that the strata building is an old, wood-frame house that was converted into 4 strata lots when the strata was created in 1986. There are 2 strata lots on the first floor. SL3 is on the second floor, and SL4 is on the third floor.

15. SL3 and SL4 share some limited common property (LCP). This includes the front porch, back deck, and stairs to the back deck. As shown in photos provided in evidence, the back deck stairs run upwards just outside the applicant's bedroom and office.

16. The strata has not registered any bylaws with the Land Title Office, so based on section 120(1) of the *Strata Property Act* (SPA) the strata's bylaws are the Standard Bylaws under the SPA.

17. The SL4 owners say they purchased SL4 in June 2016 with the intention of renovating it. They say based on a home inspection obtained when they purchased SL4, they knew there were structural deficiencies in the strata lot and also in common property in the strata building, including a sagging floor in the SL4 living room, poorly supported beams in the attic, and aging vinyl on the back LCP deck.

They say they shared the inspection report with the strata, and anticipated that some structural repairs would be required. This is not disputed.

18. The parties agree that the SL4 owners' renovation began in July 2018. The SL4 owners obtained a municipal building permit for this work, and the photos provided in evidence show it involved stripping much of the strata lot down to its wooden framing and re-building it entirely. This work was performed by a contractor, Eyco Building Group (Eyco). No one lived in SL4 during the renovations, which lasted until at least late March 2019.

19. In July and August 2018, the applicant was out of the country, and rented her strata lot to a tenant on a temporary basis.

20. Around July 28, 2018, workers in SL4 accidentally cut a water supply line, causing a major leak that caused significant damage to the applicant's strata lot. The insurer's incident report shows that the leak damaged the ceiling, walls and floor in some rooms. The insurer paid for the repairs, and also paid to move the applicant's belongings into storage and paid for 3 weeks of temporary accommodations during the repairs in September and October 2018.

21. In September 2018, the SL4 owners requested that the strata hold a meeting to discuss repairing the LCP back deck. Around this time, Eyco also began working on replacing the structural beam between SL3 and SL4. The parties agree that the strata agreed to pay for these repairs, through what appears to have been a special levy (it is referred to as a "cash call" in email correspondence). The details of this decision are not before me, and I find they are not relevant in deciding this dispute. The evidence shows, and the parties agree, that the beam and deck repairs were carried out by Eyco, and paid for by the strata.

22. The parties also agree that the beam replacement work caused cracks in the drywall ceiling in the applicant's strata lot.

23. There was also a second water leak from SL4 into SL3 around November 22, 2018. The applicant provided photos showing the water on her floor, and says this leak

was caused when an Eyco worker broke a water pipe in SL4. No contrary evidence was provided, so I accept that is what occurred.

24. In understanding the facts in this dispute, it is important to note that since there are only 4 strata lots, all owners are also members of the strata council.

POSITIONS OF THE PARTIES

25. The applicant says the SL4 renovations, as well as the structural beam replacement and back deck repairs, caused an unreasonable disruption in her use and enjoyment of her strata lot. She says the water leaks, including relocation for 3 weeks during repairs, ceiling cracks, and all the necessary repairs to her strata lot were extremely upsetting and disruptive. She also says the noise levels were very high over a 7 month period, including drilling, pounding, and tapping, workers talking and listening to loud music, and workers walking and "stomping" on the LCP porch, deck and stairs in heavy boots.

26. The applicant says she is a single parent who works at home, and requires a quiet home office to do her work. She says the SL4 renovations impeded her ability to do her work tasks, including teaching online courses, reading, writing, grading, communicating online, and speaking on the phone. She says she could not concentrate on her work. She also says the renovation noise and disruption interrupted her sleep on numerous occasions, and impeded her ability to work on a book project. She says she could hear the noise throughout her home, and she could not get away from it.

27. The applicant also says the strata and the SL4 owners stalled in repairing her strata lot, by waiting until the SL4 renovations were complete rather than making repairs sooner. She also says the strata failed to intervene in the ongoing noise and disruption.

28. The applicant says the protracted noise and disruptions due to the SL4 renovation, as well as the strata's delay in completing repairs, caused her to become ill due to stress. She says she was unable to enjoy her property for 9 months.

29. In contrast, the SL4 owners say they had a municipal permit to conduct the renovations, and that all noise and disruptions were reasonable given the scope of the work. They said the work was not protracted, as claimed by the applicant, and was not noisier than one would expect from such a large job. They also say the work was necessary in order to improve the strata building's integrity. By this, I infer they mean the structural beam and LCP deck repairs, funded by the special levy. They also say the applicant could have used an office at her workplace during the renovations, and they are not responsible for her "poor choices and inability to organize herself, personally and professionally."

30. The SL4 owners also say that many of the applicant's complaints not true, and that she is not credible.

31. The strata submits that while repairs to the applicant's strata lot did not happen as quickly as she would have liked, the strata took them seriously and had the necessary repairs completed at no cost to the applicant. The strata says it determined during the March 24, 2019 hearing that the SL4 owners violated no bylaws.

Strata Council Hearing

32. The SL4 owners say the applicant's claims are invalid because the strata council had not yet held a hearing at the time the applicant filed the dispute. I disagree, and find that the applicant's claims are not invalid on this basis.

33. SPA section 189.1(2)(a) says that before an owner may request that the tribunal resolve a dispute about a strata property matter, the owner must have requested a hearing before the strata council. In a February 27, 2019 email to council president AS, the owner requested a hearing about her noise nuisance complaint.

34. AS responded in writing, and said the hearing would occur on March 15, 2019. The council later cancelled that date, and the hearing ultimately occurred on March 24, 2019. This was despite the applicant's repeated written protests about the

cancellation of the March 15 hearing date, and her repeated requests to have the hearing sooner than March 24.

35. The applicant filed her dispute with the tribunal on March 20, 2019. Since SPA section 189.1 only requires that an owner request a strata council hearing before filing a dispute (not that a hearing occur), I find the applicant met this requirement with her February 27 email. I also note that based on the email correspondence, and the discussion at the March 15, 2019 annual general meeting (AGM), all parties clearly knew about the substance of the applicant's claims before she filed her tribunal dispute.

36. I therefore conclude that the applicant's claims are not invalidated by the fact that the strata council did not hold its hearing until after she filed her dispute.

Engineering Report

37. In her submissions, the applicant requested an order that the respondents hire an independent engineer to assess post-renovation noise and potential structural damage to her strata lot. She requested a related order that the respondents pay for any repairs and noise mitigation recommended by this engineer.

38. I decline to issue these orders, as they were not included in the Dispute Notice, and she did not request any subsequent amendment to the Dispute Notice, although she was open to do so. Also, I would not issue these orders in any event. The applicant bears the burden of proving her claims, and there is no evidence before me indicating that there is any structural problem with the building or the applicant's strata lot. I also note that it was open to the applicant to obtain her own engineering report, or sound report, and then seek reimbursement of the cost as a dispute-related expense.

39. Since there is no evidence before me suggesting any ongoing structural problem, I do not order the respondents to obtain an engineering report or perform repairs. I dismiss these claims.

Must the SL4 owners stop the renovation-related noise and disruptions?

40. The applicant seeks an order that the SL4 owners stop all renovation-related nose and disruptions.

41. The evidence indicates that the SL4 owners moved into SL4 around March 30, 2019, and their municipal renovation permit ended on April 29, 2019 when the building inspector confirmed that the work was complete.

42. In general, when events occur after a person files a Dispute Notice that resolve the controversy between the parties, the dispute is moot and the tribunal will decline to resolve it. However, the tribunal has discretion to decide the dispute if, for example, resolving the dispute will have a practical impact on the parties and potentially preclude future disputes (see *Binnersley v. BCPSCA*, 2916 BCCA 259).

43. Based on the evidence establishing that the renovations have ended, I find issue about ongoing renovation noise is moot, and ordering it to stop will have no practical effect. I therefore dismiss this claim.

Did the strata fail to enforce its nuisance bylaw against the SL4 owners?

44. Under sections 4 and 26 of the SPA, the strata council has a duty to exercise the powers and perform the duties of the strata corporation, including the enforcement of bylaws and rules. When carrying out these duties, such as bylaw enforcement, the strata council must act reasonably. This includes a duty to investigate alleged bylaw violations, such as neighbour-to-neighbour noise complaints (see *Torok v. Amstutz et al,* 2019 BCCRT 386).

45. There is no particular complaint procedure set out in the SPA. A strata council is permitted to deal with complaints of bylaw violations as the council sees fit, so long as it complies with the principles of procedural fairness and is not "significantly unfair" to any person who appears before the council (*Chorney v. Strata Plan VIS 770*, 2016 BCSC 148 (CanLII)).

46. The strata says it took steps to enforce its bylaws. However, I find these steps were not sufficient, and were not reasonable in the circumstances.

47. Standard bylaw 3(1) says in part that an owner or occupant must not use a strata lot in a way that causes nuisance or hazard to another person, causes unreasonable noise, or reasonably interferes with the rights of other persons to use and enjoy another strata lot.

48. The tort of nuisance also applies. The tort of nuisance in a strata setting is an unreasonable continuing or repeated interference with a person's enjoyment and use of their strata lot, and a remedy should be made without undue delay once the respondent is aware of the nuisance (see *The Owners, Strata Plan LMS 3539 v. Ng*, 2016 BCSC 2462). In *Ng*, the court found that the owner brought to the strata's attention facts about a water leak that required investigation, and failure to conduct that investigation amounted to an omission to use reasonable care to discover the facts.

49. The evidence shows that the applicant sent numerous emails from at least October 9, 2018 onwards, complaining of noise and nuisance from the SL4 renovations. While most of her emails were addressed to the SL4 occupants, she copied all the other strata council members on most of these messages. Since the strata is small, all owners, including the SL4 occupants, are on the strata council, as I have noted earlier. Therefore, all strata council members were clearly aware of the applicant's concerns.

50. For example, on October 9, 2018, the applicant emailed that the structural repair work was causing further cracks and damage to her ceiling. She also asked when the "heavy pounding" was expected to be done, and said it was difficult to work under the noise. Other emails from the applicant state the following:

    a. November 1, 2018 – the renovation noise was "extraordinary", and included not only pounding but loud radio and conversation. She also noted that her profession demanded quiet concentration.

b. November 5, 2108 – the applicant said there was “a lot of noise” that started before 8:00 am. She also said the upstairs work was causing ceiling cracks and dust. She said she was trying to be patient with the extraordinary noise, but she was in a profession that demanded quiet concentration.

c. November 9, 2018 – the applicant sent a detailed email, copied to all strata council members, detailing her frustration with the noise and disruptions, and how it was interfering with her work. She again mentioned the workers’ loud radio, chatter, and “stomping around”, and said if she had known about the impact of the renovation she would not have bought her property. She said she had been disturbed for months, with no completion timeline.

d. November 22, 2018 email – the applicant wrote that she felt physically and mentally ill due to renovation-related noise and stress, including the impact of 2 water leaks.

51. On November 28, 2018, the applicant wrote to the SL4 owners, asking to meet about the “deteriorating situation”. Ms. Gibb replied and said the meeting was “best had as a strata”. Although AS was copied on this correspondence, no steps were taken to hold any meeting, including a strata meeting, or enforcement of the noise and nuisance bylaw.

52. I also note that February 3, 2019 strata council meeting minutes indicate that SL4 renovation work was occurring on weekends, and that the SL4 owners were unaware of this (but did not dispute that it occurred). The resolution indicated in the minutes was that the SL4 owners would ask their contractor to alert them when there would be noise on the weekends, so they could alert the strata.

53. I find that this evidence establishes that all strata council members were aware of the applicant’s ongoing noise and nuisance complaints. However, there is no evidence that the strata took any steps to enforce bylaw 3, such as informing the SL4 owners about the bylaw, issuing warnings or fines, or working with the parties to limit noise in any way. The evidence indicates that instead, the strata did not respond at all to the applicant’s complaints. I find this is significant, particularly since

at least part of the work was common property repairs to the structural beam and deck. The evidence indicates that the strata assigned that work to Eyco, and that it was supervised by the SL4 owners, rather than the strata or other members of the strata council. Although the strata was aware of the applicant's complaints about Eyco's workers, such as loud music, talking, and "stomping", there is no evidence that the strata took any steps to investigate the complaints against Eyco (its contractor and that of the SL4 owners), to reduce or limit construction-related noise in any way.

54. Even after the applicant sent her February 27, 2019 email to AS, which set out a formal noise complaint, there is no evidence before me confirming that the strata took any action to enforce its bylaws. The strata's only response was to schedule a hearing with the applicant and the SL4 owners, which was eventually held on March 24, 2019.

55. It appears that the strata was under the mistaken belief that the proper course of action after receiving a bylaw violation complaint is to schedule a hearing within 4 weeks. That is incorrect. While the applicant did request a hearing, the strata also has an ongoing duty to enforce its bylaws, which includes a duty to investigate bylaw violation complaints.

56. The evidence provided by the strata does not show that it took any steps at all to investigate the applicant's noise and nuisance complaints until late April or early May 2019, after the renovations were already over. Also, the only investigative step appears to have been to send a letter to the SL4 owners, and the content of that letter is not in evidence.

57. The strata's March 27, 2019 decision letter, following the March 24 hearing, states that the SL4 owners did not breach any bylaws. The letter says the renovations made considerable noise during the day, and took longer than expected, but the SL4 owners had a municipal permit for renovations.

58. I find the conclusion that the SL4 owners breached no strata bylaws is not consistent with the evidence that was available to the strata at the time the decision

was made. Although the SL4 owners dispute the applicant's credibility, they provided no evidence to contradict her documented noise and nuisance complaints, which include dates, times, and descriptions. In her emails, Ms. Gibb admitted that they were rarely present while the work was occurring. Some of the complaints, such as weekend work, are also documented in meeting minutes. For these reasons, I accept the applicant's evidence about noise and nuisance in her strata lot.

59. As previously stated, bylaw 3 prohibits nuisance, unreasonable noise, and unreasonable interference with the rights of another person to use and enjoy their strata lot.

60. I find that the evidence before me establishes that the SL4 owners' renovations were a nuisance to the applicant, that they caused noise, and that they interfered with her use and enjoyment of her strata lot from the time her return to Canada in early September 2018 until she filed her dispute on March 20, 2019. I also find, based on the evidence, that this noise and interference were unreasonable.

61. The SL4 owners assert that renovations completed under a municipal building permit do not fall within the strata's nuisance bylaw. Based on its submissions and evidence, the strata also appears to have adopted this position. However, I find it is incorrect. A strata lot owner does have a right to renovate their strata lot, assuming they have the required permissions and permits. But that does not mean that they are exempt from nuisance claims if the noise, nuisance, and interference with use and enjoyment are found to be unreasonable in the circumstances.

62. Based on the evidence, I find the SL4 renovation noise, nuisance, and interference with the applicant's use and enjoyment was unreasonable. Although some construction noise was inevitable, the SL4 owners did not take sufficient steps to reduce non-construction noise such as loud music, other than to mention it to the foreman. They did not rearrange their own schedules to be present while the work was occurring in order to supervise noise levels, although they expected the applicant to rearrange her schedule and work location. They were unaware of

evening and weekend work when it was occurring, and they did not prevent weekend work, merely stating that they would advise the strata council in advance.

63. I find that these actions were unreasonable, given the applicant's ongoing documented concerns, the length of the job, and the large scope of the work. I find the SL4 owners' stated position that there was nothing they could do to reduce the noise was also unreasonable. For example, they could have forbidden music on the jobsite, put rubber or other matting down to prevent noise transfer on the stairs and elsewhere, and prevented all evening and weekend work. These would have been reasonable attempts to mitigate noise and nuisance in the circumstances of their 8-month renovation. I do not accept the SL4 owners' assertion that "there is nothing we can do to prevent or reduce construction noise".

64. For these reasons, I find that the SL4 owners violated bylaw 3. I also find that the strata failed to sufficiently investigate and enforce its bylaws, and is also liable for the nuisance against the applicant, due to the fact that a significant part of the work was common property repairs performed on the strata's behalf. I address the question of remedies below.

Damages

65. The applicant seeks $5,000 in damages for nuisance and loss of use and enjoyment of her strata lot. She also seeks $2,700 for loss of rental income, and $2,300 for mental distress. I will deal with each of those claims in turn.

Loss of Use and Enjoyment

66. For the reasons set out above, I find that the applicant's use and enjoyment of her strata lot was unreasonably interfered with by the SL4 renovations and common property repairs. In addition to the extreme noise described above, I find the respondents did not take sufficient steps to limit the damage to the applicant's strata lot such as cracked ceilings and water leaks. While these damaged areas were ultimately repaired, I find the damage, the delay in repairs, and the inconvenience of

the subsequent repair work unreasonably interfered with applicant's use and enjoyment of her strata lot.

67. I also reject the SL4 owners' arguments that the applicant should have worked elsewhere. A strata lot owner has the right to reasonably use and enjoy her strata lot, including the right to work at home if she chooses. While a few days or weeks of inconvenience would not entitle an owner to damages for loss of use, in this case the applicant's work was affected from early September 2018 until late March 2019. I find that this 7-month interference with her daytime work was unreasonable, given my finding above that the neither the strata nor the SL4 owners took any effective steps to limit the noise. The obligation to abate or reduce the nuisance is on the person causing the nuisance: *Douglas Lake Cattle Co. v. Mount Paul Golf*, 2001 BCSC 566; *Peace Portal Properties Ltd. v. Surrey (District of)*, 1990 CanLII 853 (BCCA).

68. I also do not accept the SL4 owners' defence that the noise and problems were caused by Eyco, so they are not liable. Eyco was performing the work on behalf of the SL4 owners, and at times on behalf of the strata. I therefore find the respondents are liable for the noise and interference.

69. I therefore find the applicant is entitled to damages for loss of use and enjoyment. I find that the $5,000 amount claimed is generally consistent with other awards for noise and similar nuisance, such as *Suzuki v. Munroe*, 2009 BCSC 1403, *Kenny v. Schuster Real Estate Co. Ltd.*, 1990 CanLII 1092*, Chen v. The Owners, Strata Plan NW 2265*, 2017 BCCRT 113, and *Bartos et al v. The Owners, Strata Plan BCS 2797,* 2019 BCCRT 1040.

70. For these reasons, I order the SL4 owners to pay the applicant $2,500 in damages for loss of use and enjoyment, and the strata to pay the applicant $2,500 in damages for the same reason. While I have found that both respondents are liable, I find their liability arises separately, not jointly, and must pay the applicant separately. The strata must not pay for the damages I have ordered the SL4 owners to pay.

71. Also, the applicant must not be required to pay any portion of the damages.

Loss of Rental Income

72. The applicant claims $2,700 for loss of rental income.

73. I find the applicant has not proven this claim. The strata provided a copy of an email from the applicant stating that she had asked her renters to leave “in light of the complaints”. In an earlier email on the same topic, the applicant apologized to AS, stating “really sorry this is happening”.

74. I find that these emails do not support the applicant’s assertion that her tenant moved out in early in 2018 due to the first water leak. She provided no evidence, such as correspondence from the tenant, to prove why they moved out.

75. I therefore dismiss this claim.

Mental Distress

76. Finally, the applicant claims $2,300 in damages for mental distress.

77. The applicant bears the burden of establishing her claims for mental distress. Although not binding upon me, I note the decision of *Eggberry v. Horn et al*, 2018 BCCRT 224, which states that where there is no evidence of mental distress, the claim must be dismissed.

78. The applicant says she suffered stress and mental illness due to the ongoing disruption and nuisance from the renovations. Although the applicant submits she found the experience stressful, I am not satisfied that the evidence establishes that she sustained a mental injury or any mental consequences as a result of her interactions with the respondent. She provided a summary report showing she attended 2 counselling sessions “related to stress” through her employee assistance program in April 2019. However, there is no evidence confirming what those appointments were about.

79. As explained by the BC Provincial Court in *Klaus and Klaus v. Taylhardat*, 2007 BCPC 21, the law regarding when a court can compensate someone for emotional stress or nervous shock as a tort is summarized by the author Philip Osborne in "The Law of Torts" 2000, Irwin Law Publishing, at page 75 as follows:

> Nervous shock is defined as a severe emotional trauma that manifests itself in a physical disorder or in a recognized psychiatric illness such as clinical depression or post-traumatic stress disorder. It does not include emotional upset, mental distress, grief, sorrow, anxiety, worry, or other transient and more minor psychiatric injury.

80. I find the evidence before me does not establish that the applicant has a psychological disorder, as described above. For this reason, I dismiss her claim for damages for mental distress.

TRIBUNAL FEES, EXPENSES, AND INTEREST

81. As the applicant was successful in this dispute, in accordance with the CRTA and the tribunal's rules I find she is entitled to reimbursement of $225.00 in tribunal fees. Since I have found that the SL4 owners and the strata are separately liable, I order each of them to pay $112.50.

82. No party claimed dispute-related expenses, so none are ordered.

83. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses to the applicant. Also, the applicant must not contribute to any portion of the damages ordered in this decision.

84. The applicant is entitled to pre-judgement interest on the ordered damages, under the *Court Order Interest Act* (COIA). I find this interest is payable from February 27, 2019, when she filed her formal written complaint.

ORDERS

85. I order that within 30 days of this decision:

    a. The strata must pay the applicant $2,500 in damages for loss of use and enjoyment of her strata lot, plus $9.48 in pre-judgement interest, plus $112.50 in tribunal fees. This totals $2,621.98.

    b. The SL4 owners must pay the applicant $2,500 in damages for loss of use and enjoyment of her strata lot, plus $9.48 in pre-judgement interest, plus $112.50 in tribunal fees. This totals $2,621.98.

86. The owner is entitled to post-judgement interest under the COIA, as applicable.

87. Under section 57 of the CRTA, a party can enforce this final tribunal decision by filing a validated copy of the attached order in the Supreme Court of British Columbia (BCSC). Once filed, a tribunal order has the same force and effect as a BCSC order.

88. Orders for financial compensation or the return of personal property can also be enforced through the Provincial Court of British Columbia (BCPC). However, the principal amount or the value of the personal property must be within the BCPC's monetary limit for claims under the *Small Claims Act* (currently $35,000). Under section 58 of the CRTA, the applicant can enforce this final decision by filing a validated copy of the attached order in the BCPC. Once filed, a tribunal order has the same force and effect as a BCPC order.

Kate Campbell, Tribunal Member