



Civil Resolution Tribunal

Date Issued: December 15, 2020

File: ST-2020-005265

Type: Strata

Civil Resolution Tribunal

Indexed as: *Snider v. The Owners, Strata Plan BCS 3022*, 2020 BCCRT 1414

B E T W E E N :

SANDY LEIGH SNIDER and CHARLENE JOYCE SNIDER

APPLICANTS

A N D :

The Owners, Strata Plan BCS 3022

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Sherelle Goodwin

INTRODUCTION

1. This dispute is about bylaw enforcement in a strata corporation.
2. The applicants, Sandy Leigh Snider and Charlene Joyce Snider, own a strata lot in the respondent strata corporation, The Owners, Strata Plan BCS 3022 (strata). The

applicants say the strata failed to properly investigate a complaint made about them. They seek an order that the strata apologize to them and withdraw its warning letter.

3. The strata says the letter is a complaint notification letter, not a warning letter. It says it investigated the complaint, sent the letter, and provided the applicants with a strata council hearing, as required under the *Strata Property Act* (SPA). The strata says it acted appropriately in the circumstances and asks that the claim be dismissed.
4. The applicants are represented by Charlene Snider. The strata is represented by a strata council member.
5. As explained below, I dismiss the applicants' claims and this dispute.

JURISDICTION AND PROCEDURE

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over strata property claims under section 121 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
7. The CRT has discretion to decide the format of the hearing, including in writing, by telephone, videoconferencing, or a combination of these. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the evidence and submissions provided.
8. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The CRT may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.
9. Under section 123 of the CRTA and the CRT rules, in resolving this dispute the CRT may order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the CRT considers appropriate.

ISSUE

10. The issue in this dispute is whether the strata must withdraw its letter or apologize to the applicants.

EVIDENCE AND ANALYSIS

11. In a civil claim such as this one the applicants, must prove their claim on a balance of probabilities. I have reviewed all the evidence and submissions provided by the parties, but only refer to that necessary to explain my decision.
12. The strata is a bare land strata with 4 phases, the first of which was created on July 31, 2008. The applicants jointly purchased strata lot 150 (SL 150) in Phase 2 of the development in July 2010.
13. The strata filed a complete set of amended bylaws in the Land Title Office on June 3, 2019. Bylaw 4.2 prohibits a resident or visitor from using a strata lot, common property, or common assets in a way that causes a nuisance or hazard to another person or unreasonably interferes with the rights of another person to use and enjoy the common property, common assets, or another strata lot.
14. The strata's bylaws allow for owners to rent their properties once every 2 weeks so long as notice is given to the strata and certain procedures are followed.
15. The strata is managed by a strata property management company.
16. On May 15, 2020 another strata lot owner in Phase 2 (PQ) made a complaint to the strata about the applicants. PQ alleged that Mr. Sinder had unreasonably interfered with PQ's use of his strata lot. According to PQ, Mr. Snider had yelled at PQ's rental guests a few days earlier, telling them not to use the fire pit. PQ said Mr. Snider had approached PQ's guests and family members several times in the summer of 2019, asking why they were on the property and if they were renting PQ's cottage. PQ alleged that Mr. Snider asked at least one guest for photo identification in 2019. PQ asked the strata to address Mr. Snider's alleged harassment.

17. In a May 22, 2020 letter to the applicants, the strata advised that it had received a complaint that the applicants had been “inappropriately addressing, questioning and verbally accosting an owner and their guests...while they are using and enjoying their own strata lot.” The strata recited bylaw 4.2 and asked the applicants to ensure that no one associated with their strata lot addressed the neighbours in a negative way or did anything to unreasonably interfere with the neighbours’ use of their own strata lot. The strata invited the applicants to contact the strata manager with any complaints or issues about the neighbours or their guests. The strata wrote that failure to comply with the bylaws might result in fines.
18. In emails to the strata manager in June 2020, the applicants denied talking to PQ or his guests and accused PQ of lying to the strata. The applicants wrote that another neighbour (YZ) told Mr. Snider that YZ had been talking pleasantly to PQ’s guests and family several times. The applicants accused the strata of taking PQ’s complaints at face value and failing to investigate before sending the May 22, 2020 letter. They requested a copy of the complaint, and a hearing.
19. Neither party made submissions about what happened at the June 27, 2020 hearing or provided any minutes from the meeting.
20. On July 5, 2020 the strata informed the applicants that the May 22, 2020 letter was a complaint notification, which the strata was obligated to send to the applicants. The strata decided it would take no further action in the matter. The strata wrote that, if it received another complaint against SL 150, it would investigate the matter before taking any action.
21. The applicants say the May 15, 2020 complaint is undated and unsigned. I infer the applicants argue the complaint should not have been accepted by the strata. There is no requirement, in the SPA or the strata’s bylaws, that complaints need be dated or signed. I do not find the strata erred in considering an undated and unsigned complaint.

22. The applicants say the strata should have investigated PQ's complaint before sending the May 22, 2020 letter. They say PQ's complaint is based on falsehoods and that the complainants never had the chance to tell their side of the story.
23. Section 26 of the SPA requires the strata council to exercise the powers and perform the duties of the strata, including enforcing bylaws. The strata council is required to act reasonably when carrying out these duties, and this includes a duty to investigate alleged bylaw contraventions.
24. Section 135 of the SPA says a strata cannot impose a fine, charge the costs of remedying a contravention, or deny recreational facility use, for a bylaw contravention before it has first received a complaint, given the owner written particulars about the complaint and a reasonably opportunity to respond, including a hearing if requested, and given the owner written notice of the strata's decision. Aside from section 135, the SPA sets out no procedural requirements a strata must follow when investigating a complaint. The courts have said a strata may investigate bylaw contravention complaints as its council sees fit, provided it complies with the principles of procedural unfairness and is not significantly unfair to any person appearing before the council (see *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148).
25. The strata says it investigated the matter by looking at past similar complaints against SL 150. Although the strata did not provide copies of the full strata council meeting minutes as evidence in this dispute, it provided an excerpt from a July 9, 2019 council meeting that documented complaints from more than one strata lot owner about yelling, aggressive and argumentative behaviour. However, there is no indication that the complaints are about either of the applicants, so I give very little weight to this excerpt.
26. The strata provided a copy of a July 12, 2019 complaint alleging that Mr. Snider had stopped owners and guests on the property to ask them who they are and what they are doing on the property. The complainant alleged Mr. Snider reprimanded the complainant, their family, and other owners for breaching pool rules, and had ordered someone out of the pool. The complainant accused Mr. Snider of nuisance,

harassment, and interfering with the complainant's quiet enjoyment of their own strata lots and the common property. I find the July 2019 complaint about Mr. Snider similar to the May 15, 2020 complaint. I find that, in looking at past similar complaints, the strata took some steps to investigate the matter.

27. The strata says it sought advice about the May 15, 2020 complaint. Based on emails from both the strata property manager and strata's lawyer, I find the strata reasonably sought advice on whether it was obliged to act on the complaint.
28. I agree with the applicants that the strata did not get the applicants' side of events before issuing the May 22, 2020 letter. However, as noted above, there is no requirement that the strata communicate with the subject of a complaint before issuing a complaint notification letter.
29. I disagree with the applicants that the May 22, 2020 is an official warning letter. The strata's correspondence with its property manager and lawyer refer to a "section 135 letter" which, I infer, is a complaint notification letter as required under SPA section 135. I find the contents of the May 22, 2020 letter are not a warning, but rather notice of the complaint and the strata's decision to take no further action about the complaint. Given that the letter did not contain a warning, fine, or other penalty, I find the strata was not required to obtain the applicants' side of the story before sending the letter.
30. On balance, I find the strata acted reasonably in carrying out its statutory duty to enforce the strata's bylaws. I find it reasonably investigated the history of similar complaints relating to SL 150, sought advice, and notified the applicants of the complaint, as required under section 135 of the SPA. Further, the strata provided the applicants with the opportunity to tell their side of the story by granting them a June 27, 2020 hearing.

31. The applicants say that the May 22, 2020 letter stays on record with the strata and could be the basis for a future strata decision against them, such as levying a fine. First, the strata's July 5, 2020 letter is clear that it decided not to levy a fine against the applicants in response to PQ's May 15, 2020 complaint. The matter is concluded. Second, the applicants' argument about what the strata may or may not do in the future is speculative. Should the strata decide to impose a fine against the applicants for any future alleged bylaw infraction, then it would be open to the applicants to address the matter through a strata council hearing and possibly a future CRT application.
32. I acknowledge the applicants' dissatisfaction with the strata council's handling of the complaint and their disagreement with its characterization of Mr. Snider's behaviour. However, I do not find the May 22, 2020 letter to be a warning or any form of bylaw enforcement, as discussed in SPA section 130. I find the strata did not act in a manner that was unfair or contrary to the SPA, bylaws or any rules or procedures. I find no basis to order the strata to withdraw the May 22, 2020 letter and decline to do so. I dismiss the applicants' claim for withdrawal of the letter.
33. Even if I had found that the strata must withdraw its letter, I would not order the strata to apologize. The CRT generally does not order parties to apologize because forced apologies are not productive or helpful. I dismiss the applicants' claim for an apology.
34. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party their CRT fees and reasonable expenses. As the applicants were unsuccessful in this dispute, I find they are not entitled to any reimbursement. The strata did not incur any CRT fees and made no claim for reimbursement of expenses.
35. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against the applicants.

ORDER

36. I dismiss the applicants' claims and this dispute.

Sherelle Goodwin, Tribunal Member