



Civil Resolution Tribunal

Date Issued: March 18, 2021

Date of Amended Decision: April 8, 2021

File: ST-2020-003551

Type: Strata

Civil Resolution Tribunal

Indexed as: *Heise v. The Owners, Strata Plan VR 237*, 2021 BCCRT 296

B E T W E E N :

HANS HOLGER HEISE

APPLICANT

A N D :

The Owners, Strata Plan VR 237

RESPONDENT

A N D :

HANS HOLGER HEISE

RESPONDENT BY COUNTERCLAIM

AMENDED REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This dispute is largely about strata governance and communications. The applicant, Hans Holger Heise, owns a strata lot in the respondent strata corporation, The Owners, Strata Plan VR 237 (strata).
2. Hans Heise says the strata provided the owners in the strata an incomplete agenda when it sent them notice of the February 27, 2020 annual general meeting (AGM). Hans Heise also says the strata breached the *Strata Property Act* (SPA) and strata bylaws at the AGM by failing to include the missing items in the agenda, ignoring their request to discuss old business, and failing to run proper strata council elections. Hans Heise seeks orders for the strata to operate in accordance with the SPA and strata bylaws and answer all their correspondence in writing. Hans Heise also seeks an order for the representative of the strata's property manger, BS, to stop breaching the SPA. BS is not a party to this dispute. In their arguments, Hans Heise raised several other issues which I address below.
3. The strata disagrees with Hans Heise's claims. It says the AGM agenda was accurate. It also says the strata council conducted the February 2020 AGM and the election of strata council members in accordance with the SPA and its bylaws. It also objects to Hans Heise's other claims as being vague and too numerous to respond to.
4. The strata counterclaims for orders that Hans Heise stop posting letters in common areas of the strata and to communicate with BS rather than strata council members. Hans Heise disagrees. They say there is no evidence that anyone complained. They also say that the strata should have provided them a hearing first on these issues.
5. Hans Heise is self-represented. A strata council member represents the strata.
6. For the reasons that follow, I dismiss Hans Heise's claims. I order Hans Heise to only contact BS in the terms set out below. I refuse to resolve the strata's counterclaims about defamation. I dismiss the strata's remaining counterclaims.

JURISDICTION AND PROCEDURE

7. 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.
8. 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.
9. 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.
10. 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.

New Claims and Allegations Raised

11. In submissions, Hans Heise raised new claims and allegations that were not in their application for dispute resolution. The strata objects and says the new claims are too numerous and vague to respond to. Hans Heise acknowledges that all the claims are “[too] broad to manage properly” and that they should “stick to specific complaints”.
12. The CRTA and the CRT rules allow an applicant to request that a Dispute Notice be amended to include new claims. Hans Heise did not do so.
13. Hans Heise's new claims and allegations include the following issues: their hearing requests and scheduling for them, the accuracy of meeting minutes, the sufficiency

of the strata's answers to various complaints, the strata council's communication with owners, damage caused by a failure of the strata to repair items, the wording of bylaws and rules, parkade cleaning and a janitorial contract, installation of parkade mirrors, carpet cleaning, the strata's roofing, signage, use of proxies, document requests, the procedure the strata used to hire its current property manager, certain bylaw infractions including pet bylaw infractions by a neighboring owner, and COVID-19 cleaning protocols.

14. Hans Heise was vague about what remedies they wanted for these matters. For example, Hans Heise says the February 2020 AGM minutes were inaccurate, but did not request the strata to correct them. I therefore found it unclear if Hans Heise raised these issues in support of a specific remedy or to show a general pattern of wrongdoing by the strata.
15. Administrative tribunals such as the CRT are bound to follow the common law principle of procedural fairness. This consists of the right to be heard and the right to an impartial hearing. See *BC Administrative Law Practice Manual*, (The Continuing Legal Education Society of British Columbia: Vancouver, 2013) at section 11.40. Previous CRT decisions have held that deciding issues not raised in a Dispute Notice or Amended Dispute Notice may be a breach of procedural fairness. See, for example, *Rodgers v. The Owners, Strata Plan VR 1322*, 2020 BCCRT 368
16. I find that the strata's right to be heard includes notice of the issues to be decided and an opportunity to respond. In these circumstances, I find that it would be a breach of procedural fairness to decide any of the claims not raised in the Dispute Notice. This is because I find the new claims are so numerous and vague that the strata cannot reasonably know which allegations it must respond to or to what degree. If Hans Heise had raised the new claims earlier then the parties could have potentially clarified or narrowed the issues during facilitation. That did not occur.
17. In summary, I make no findings about Hans Heise's claims that are not in the Dispute Notice, as it would be procedurally unfair to do otherwise.

ISSUES

18. I find the issues in this dispute are as follows:

- a. Did the strata breach the SPA or strata bylaws by failing to include certain items in the February 2020 AGM agenda?
- b. Did the strata breach the SPA or strata bylaws by failing to address topics raised by Hans Heise at the February 2020 AGM?
- c. Did the strata conduct the strata council elections at the February 2020 AGM in a significantly unfair manner?
- d. Must the strata answer all of Hans Heise's correspondence?
- e. Should I order BS to stop breaching the SPA?
- f. Should I order Hans Heise to stop posting letters in common areas of the strata?
- g. Should I order Hans Heise to communicate with BS rather than strata council members?

EVIDENCE AND ANALYSIS

19. In a civil claim like this one, Hans Heise and the strata must prove their claims and counterclaims on a balance of probabilities. I have reviewed all the evidence and submissions but only address them to the extent necessary to explain my decision.

20. The strata's property consists of a low-rise building that provides apartment-style residential housing. There are 24 strata lots in the strata. Hans Heise has owned a strata lot in the strata since 1986. The strata hired its current property manager in September 2018.

21. The strata registered a complete set of bylaws in the Land Title Office in July 2003. They were only amended once in March 2019 to change the maximum amount the

strata could levy for a fine for bylaw contraventions. I will discuss the specific bylaws at issue below.

22. After the February 27, 2020 AGM, Hans Heise wrote to the strata and alleged that the strata council and BS did not hold the AGM in compliance with the SPA. The strata held a hearing on April 14, 2020 at Hans Heise's request. In its April 20, 2020 letter the strata council denied it had breached the SPA. Hans Heise then filed an application for dispute resolution on May 1, 2020.

Issue #1. Did the strata breach the SPA or strata bylaws by failing to include certain items in the February 2020 AGM agenda?

23. The strata sent the owners in the strata a February 6, 2020 notice for the February 27, 2020 AGM. The notice included an agenda.
24. SPA section 45 discusses the notice requirements for an annual or special general meeting. Under that section, the notice must include a description of matters that will be voted on at the meeting. There is no requirement to include an agenda. SPA section 46(1) says that the strata council determines the agenda of an annual or special general meeting. There is an exception, but it does not apply to this dispute.
25. Hans Heise relies on bylaw 34.1. Bylaw 34.1 says, in part, the following:

34.1 The order of business at annual and special general meetings is as follows: ...

(c) elect a person to chair the meeting if necessary; ...

(g) deal with unfinished business;

(h) receive reports of council activities and decisions since the previous annual general meeting, including reports of committees, if the meeting is an annual general meeting;

(i) ratify any new rules made by the strata corporation under section 125 of the Act; ...

26. Hans Heise says the strata's agenda contravened bylaw 34.1 because it failed to include the above-listed items. The strata disagrees and says it did not include those items because they were not planned for and did not occur. In other words, it says that for the February 2020 AGM, there was no unfinished business to deal with, no reports to be received, and no rules to be ratified. Hans Heise did not provide any evidence to dispute this, so I find these matters were not discussed in any meaningful way at the AGM. Hans Heise also says the strata did not elect a chairperson for the AGM.
27. Based on the wording of bylaw 34.1, I am not satisfied that any of the listed items must be included either as an item to be heard at the AGM or as part of a written agenda. I find bylaw 34.1 only sets out the order of business for matters that the strata council turns to. My interpretation is consistent with SPA section 46(1), which allows the strata council to determine the agenda.
28. Bylaw 34.1 also says to elect a person to chair the AGM only if necessary. Consistent with this, bylaw 30.1 says that the AGM "must be chaired by the president of the council". Bylaw 30.2 says that if the president cannot do so, the vice president must chair the AGM. Bylaw 30.3 says that a chair is elected only if the president and vice president cannot act. The strata says the strata council present, ED, chaired the February 2020 AGM. As there is no evidence to the contrary, I am satisfied that the strata did not need to elect a chairperson for the AGM.
29. The evidence and submissions before me, including the February 2020 AGM minutes, also indicate that the strata followed the written agenda. As such, I find the agenda was accurate. I dismiss this claim.

Issue #2. Did the strata breach the SPA or strata bylaws by failing to address topics raised by Hans Heise at the February 2020 AGM?

30. Hans Heise says that at the February 2020 AGM, BS agreed to their request to discuss "old business" during the portion of the AGM meant for "new business". Hans Heise says the strata then did not discuss the old business during the allotted time.

31. Hans Heise did not explain what the old business was and requested no specific remedy about it. I did not find there to be any compelling evidence that the strata ignored this request. Given the lack of details, evidence, and clarity about the remedy requested, I do not find this claim proven. I dismiss this claim.

Issue #3. Did the strata conduct the strata council elections at the February 2020 AGM in a significantly unfair manner?

32. The owners in the strata elected a new strata council at the February 2020 AGM. Hans Heise says that in past years the owners elected council members by choosing the 7 candidates with the most votes. Hans Heise says that at the February 2020 AGM the strata council instead required owners to vote for candidates, and any candidates had to have at least 50% of the votes to be on strata council. I infer that the change in voting methods coincided with the strata's change in property managers. There were 9 nominations but only 6 people were elected to council.

33. There are no complaints before me from any of the unelected candidates. Their names are in the minutes. Hans Heise is not one of them.

34. Hans Heise says that the strata should have first had the owners vote on how they would elect strata council members. The strata disagrees.

35. Although Hans Heise did not say so, I find their claim is one of significant unfairness. SPA section 164 sets out the BC Supreme Court's authority to remedy significantly unfair actions. The CRT has jurisdiction over significantly unfair actions under CRTA section 123(2), which has the same legal test as cases under SPA section 164. See *The Owners, Strata Plan BCS 1721 v. Watson*, 2018 BCSC 164.

36. Under SPA section 164, the courts have interpreted "significantly unfair" to mean conduct that is oppressive or unfairly prejudicial. Oppressive conduct means conduct that is burdensome, harsh, wrongful, lacking in fair dealing or done in bad faith. Unfairly prejudicial conduct is unjust or inequitable. See *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342 at paragraph 88.

37. In *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44 the court established a test for significant unfairness based on expectations: what is or was the expectation of the affected owner, was that expectation on the part of the owner objectively reasonable, and if so, was the expectation violated by an action that was significantly unfair.
38. In *Kunzler v The Owners, Strata Plan EPS 1433*, 2020 BCSC 576, the BC Supreme Court said that consideration of an owner's expectations is not always necessary when determining significant unfairness. I find Hans Heise's expectations are relevant and will consider them here, because the strata changed how it conducted elections from previous years.
39. In these circumstances I find that Hans Heise expected the strata to conduct elections as it had in previous years, or have owners vote on any changes. I find this expectation was reasonable as the strata changed its methods without warning. However, I do not find the strata violated Hans Heise's expectation through a significantly unfair act. I reach this conclusion because I find the strata was not obligated to have the owners vote on the election methods, and it conducted elections in an otherwise proper manner.
40. SPA section 25 says that at each AGM eligible voters must elect a council. SPA section 29 says the number of persons on council is determine by the bylaws. In this case, bylaw 12.1 says there must be between 3 and 7 individuals on strata council.
41. Strata bylaw 32.9 says that an eligible voter may request the election of strata council members be held by secret ballot. Aside from this, the bylaws do not specifically state how the strata should conduct elections.
42. Similarly, the SPA is largely silent on how to carry out such elections. SPA section 50 says that matters at annual or special general meetings are decided by majority vote unless a different voting threshold is required or permitted by the SPA and its regulations. As noted in L. Joy Tataryn, ed., *British Columbia Strata Property Practice Manual*, looseleaf (Vancouver: The Continuing Legal Education Society of British

Columbia, 2008) at §7.29, some practitioners interpret this to mean that every candidate for council must have the support of the majority to be elected.

43. In *Yang v. Re/Max Commercial Realty Associates (482258 BC Ltd.)*, 2016 BCSC 2147, aff'd 2017 BCCA 341 at paragraphs 114 to 115, the court held that, despite section 50, a valid election could include choosing an individual or individuals by acclamation. However, the court said the better practice was to require a vote where a majority of voters has not approved a resolution to have an election proceed by acclamation.
44. I find that, as the strata was changing its election methods, it would have been preferable for the owners to vote on a resolution on how the election should proceed. In *Yang* the court endorsed a similar approach regarding acclamations. However, I do not find that this was a requirement under the SPA or the bylaws. I find it likely that the strata changed its methods to ensure that elected candidates would be supported by a majority vote under SPA section 50. I do not find this to be oppressive or unfairly prejudicial in the circumstances. The owners still elected the required number of council members.
45. Ultimately, I find that the strata conducted proper elections, and as such, Hans Heise's expectations were not violated by an action that was significantly unfair. I dismiss this claim.

Issue #4. Must the strata answer all of Hans Heise's correspondence?

46. In a June 29, 2020 letter to Hans Heise, BS wrote that the strata council would no longer respond to questions previously answered at strata council meetings, hearings, or in email exchanges. Hans Heise disagrees and says the strata should answer all correspondence.
47. I decline to order the strata to respond to all of Hans Heise's correspondence. The strata is not legally obligated to do so. See, for example, *Tenten v. The Owners, Strata Plan VR113*, 2019 BCCRT 1427. Further, the strata council only decided to stop responding to repetitive questions. Previous CRT decisions have held that

owners should limit repetitive emails to the strata. See, for example, *Norman v. The Owners, Strata Plan VIS 5710*, 2020 BCCRT 796 at paragraph 45. Although CRT decisions are not binding, I agree with this reasoning.

48. For those reasons, I dismiss this claim.

Issue #5. Should I order BS to stop breaching the SPA?

49. I have already found that the strata did not breach the SPA or any bylaws. For the same reason, I find that BS did not breach any provisions of the SPA or any bylaws while acting for the strata. I decline to make the order sought for this reason.

50. I would also decline to make the order sought for 2 other reasons. First, neither BS nor the property management firm are parties to this dispute. Second, BS is already obliged to comply with the SPA, to the extent that it applies to him. Numerous CRT decisions state that ordering someone to comply with the SPA or the bylaws is unnecessary and merely repeats an existing legal obligation. See also the BC Supreme Court case of *SWS Marketing Inc. v Zavier*, 2021 BCSC 312 at paragraph 43. I agree and would decline to make the order for this reason as well. I dismiss this claim.

Issue #6. Should I order Hans Heise to stop posting letters in common areas of the strata?

51. I move on to the strata's counterclaims. The strata alleges that from April to September 2020 Hans Heise posted 6 different letters on common property. Hans Heise did not deny posting the letters. In any event, the letters identify Hans Heise as the author.

52. The strata requests an order for Hans Heise to refrain from posting letters without prior written consent from the strata. It also seeks an order for Hans Heise to comply with bylaws 45.6 and 45.7, a strata rule about postings, and the strata's bylaws and rules in general.

53. Bylaw 45.6 says a resident must not erect or display any signs, placards, or notices of any kind on the common property or in a strata lot, unless authorized by the council.
54. Bylaw 45.7 says a resident may post notices on the designated bulletin board, subject to being removed by the council if deemed inappropriate or posted for more than one week.
55. The posting rule is stated in the April 14, 2020 strata council meeting minutes. It says that if an owner wishes to post a notice on the strata's bulletin board, the owner must first submit a request to the strata council. The strata council will then decide whether it can be posted in a form using the property manager's letterhead.
56. Bylaw 27, amended in March 2019, says the strata may fine an owner up to \$200 for each bylaw contravention and \$50 for each rule contravention.
57. Based on the strata's submissions and images of the postings, I find that that Hans Heise wrote and posted letters on these dates about the following topics:
 - a. on April 11, 2019, a bulletin board post about the causes of monoxide poisoning,
 - b. on April 20, 2020, a post taped to a wall asking neighbours to complain to the strata council about dirt in the carpet,
 - c. on April 25, 2020, a bulletin board post alleging that the strata council discriminates against Hans Heise,
 - d. on May 1, 2020, a poll taped and stapled directly to a wall regarding the strata's garbage bin and who fixed it,
 - e. on May 7, 2020, a bulletin board posting that complains about the strata council and compares one of its members, BD, to a zombie, and
 - f. on September 9, 2020, a bulletin board posting that questions a strata council decision about a pet bylaw infraction of which Hans Heise says, "SOMETHING SURE SMELLS".

58. In its April 23, 2020 letter to Hans Heise, the strata said it received a complaint about the letter posted on April 20, 2020. It warned it might levy a fine for contraventions of bylaws 45.6 and 45.7. In its May 10, 2020 letter, the strata said it received another complaint about the letter posted on May 7, 2020, taped to a wall. However, the evidence shows Hans Heise posted the letter on the bulletin board. The strata wrote it contravened bylaws 45.6 and 45.7. At some point the strata levied a \$50 fine for the May 7, 2020 posting. The letter levying the fine is not before me.
59. The strata has requested injunctive relief, which is an order for someone to stop doing something. Injunctions are extraordinary discretionary remedies that should only be used in the clearest of cases, keeping in mind the nature of the wrong, the availability of other remedies, and the relative effectiveness of other remedies: *Interior Health Authority v. Statham*, 2005 BCSC 1243. Under CRTA section 60, a person who fails or refuses to comply with a CRT's order is liable, on application to the Supreme Court, to be punished for contempt as if in breach of an order or judgment of the Supreme Court.
60. Previous CRT decisions have held that injunctions should be used to address repeated wrongful conduct when other remedies, such as fines, prove ineffective. See, for example, *Athwal v. The Owners, LMS Strata Plan 2768*, 2020 BCCRT 1300 and *Barn v. The Owners, Strata Plan VR533*, 2020 BCCRT 1315
61. In this dispute I find the strata's warnings and fines have not yet been shown to be ineffective. After the May 1, 2020 post, Hans Heise stopped posting on the strata's walls. I find that the May 7 and September 9, 2020 postings were placed on the bulletin board without the strata's authorization. I find they breached the posting rule rather than the bylaws. This is because bylaw 45.7 allows residents to post such notices on the bulletin board, though they may be removed. As the strata has not yet enforced the posting rule against Hans Heise, I am not satisfied that levying a rule fine would prove ineffective.

62. For those reasons, I decline to make the order sought. Nothing in my decision prevents the strata from seeking another such order for other postings if it thinks it necessary. I dismiss this claim.

Issue #7. Should I order Hans Heise to communicate with BS rather than strata council members?

63. The strata alleges that from March to August 2020 Hans Heise sent 6 different letters to strata council members. The posted letters, mentioned earlier, and the sent letters are different, save for 1. Hans Heise did not deny sending them and in any event the letters identify Hans Heise as their author.

64. The strata says it repeatedly asked Hans Heise to contact the strata council through BS. It says Hans Heise ignored many of these requests and continued to leave notes under council members' doors and in common areas. The strata seeks orders for Hans Heise to 1) communicate with the strata council through BS unless otherwise authorized by the strata council in writing, and to 2) refrain from communicating with or about the strata council and property manager in defamatory or disparaging terms.

65. As evidence, the strata referred to 6 different letters Hans Heise placed under or in front of the doors of strata council members, from March to August 2020. From my review I find the letters were generally about Hans Heise's complaints about the strata council. In the letter delivered on April 22, 2020, Hans Heise insinuated that a council member was using their position unfairly. In a letter delivered on April 25, 2020, Hans Heise alleged that the strata council was discriminating against them. In the most recent letter sent on August 25, 2020, Hans Heise referred to a roof fan being left on overnight. They alleged that strata council members had made an "outright, immoral attack" against them. They also wrote, "YOU SIX ARE A DISGRACE TO THIS BUILDING". I find this to be a reference to the strata council members.

66. Hans Heise says the strata should have held a hearing first on this issue before filing its counterclaim. SPA section 189.1(2) requires an owner or tenant to request a strata council hearing before that person may apply for dispute resolution at the CRT. This requirement does not apply to the strata.

67. Hans Heise says the strata did not receive any complaints about his conduct. This is a requirement under SPA section 135(1) for enforcing bylaw or rule contraventions. I do not find it applicable here. In any event, I find that the strata council members themselves complained about the letters.
68. I turn to the applicable law. SPA section 63(1) says that a notice or other record or document that is required or permitted under the SPA, bylaws, or rules to be given to the strata corporation must be given to the strata corporation
- a. by leaving it with a council member,
 - b. by mailing it to the strata corporation at its most recent mailing address on file in the land title office,
 - c. by faxing it or emailing it to
 - i. the strata corporation using the strata corporation's fax number or email address, or
 - ii. a fax number or email address provided by a council member for the purpose of receiving the notice, record or document, or
 - d. by putting it through the mail slot, or in the mailbox, used by the strata corporation for receiving notices, records and documents.
69. I interpret “leaving it with a council member” in SPA section 63(1)(a) to mean leaving with them in person. My interpretation is consistent with the non-binding decision of *Aasland et al v. The Owners, Strata Plan VIS 3478*, 2018 BCCRT 675 at paragraph 42.
70. No bylaws appear relevant to this issue. I do not find this to be a situation where the strata has bylaws or rules that it has not tried enforcing.
71. In *The Owners, Strata Plan VR 766 v. Hayatshahi*, 2020 BCCRT 451 (*Hayatshahi*), the CRT Vice Chair considered the strata’s request for an order than an owner only communicate through mail to the strata’s property manager. The Vice Chair decided

that section 63(1) did not require the strata to provide access for all the possible forms of document delivery outlined above. In particular, the strata did not have to provide any of the methods listed in section 63(1)(c) or (d). However, the strata had to accept communication given directly to a strata council member or mailed to the strata under section 63(1)(a) and (b).

72. Ultimately, the Vice Chair ordered the owner to only contact the strata by mailing its property manager's office, or by leaving a notice or other record or document that is required or permitted under the SPA, bylaws, or rules with a council member, as allowed under SPA section 63(1)(a). The Vice Chair did so because the owner had sent an unusually large volume of correspondence to the strata. The Vice Chair also ordered the owner not to email council members.
73. Although *Hayatshahi* is not binding I find its reasoning applicable. I find that under SPA section 63 Hans Heise is entitled to leave correspondence with a strata council member or by mail to the strata. However, I find I am still able to otherwise order Hans Heise to only contact the strata by mailing or emailing BS. This is because I find the strata has not provided any of the methods listed in SPA sections 63(1)(c) or (d), nor does it have to.
74. I find that placing some limits on Hans Heise's communications with the strata and strata council members is appropriate. These limits will be less than what the strata seeks. Under the CRTA, the CRT's mandate includes providing dispute resolution services in a manner that recognizes any relationships between the parties will likely continue after this proceeding is concluded. Hans Heise did not send a large volume of correspondence. However, I find the tone of the correspondence troubling and unlikely to foster any problem solving. I also find that such correspondence should not be left in open hallways. If Hans Heise could do so, it would defeat the purpose of the bylaws and rules against posting materials on common property without authorization.

75. I order Hans Heise to only contact the strata by the following methods:

- a. By mail to BS's office or email to BS' email address, or another property manager's office or email address, if the current property manager changes,ⁱ
or
- b. By leaving a notice or other record or document that is required or permitted under the SPA, bylaws, or rules with a council member in person, as allowed under SPA section 63(1)(a).

76. I order Hans Heise not to mail strata council members or place correspondence for strata council members outside of or under the strata council members' strata lot doors.

77. As noted above, the strata also requested for Hans Heise to refrain from communicating with or about the strata council members and property manager in defamatory or disparaging terms.

78. Previous CRT decisions have held that the CRT's jurisdiction in strata matters under CRTA section 121(1) does not include defamation. See, for example, *The Owners, Strata Plan VIS 5086 v. Parkinson*, 2020 BCCRT 1265 and *Adamson v. The Owners, Strata Plan NW 2582*, 2019 BCCRT 377.

79. For the same reasons, I find that my jurisdiction in this dispute does not include defamation. I am therefore unable to make the requested order. I make no findings on whether Hans Heise made defamatory comments.

CRT FEES AND EXPENSES

80. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule.

81. Hans Heise proved no claims and the strata proved part of its counterclaims. I find the strata is partially successful for this reason. I order Hans Heise to reimburse the

strata for half its fees, which equals \$62.50. The strata did not ask for reimbursement of any dispute-related expenses, so I order none.

82. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Hans Heise.

ORDERS

83. I order Hans Heise to only contact the strata by the following methods:

a. By mail to BS's office or email to BS' email address, or another property manager's office or email address, if the current property manager changes,ⁱⁱ

or

b. By leaving a notice or other record or document that is required or permitted under the SPA, bylaws, or rules with a council member in person, as allowed under SPA section 63(1)(a).

84. I order Hans Heise not to mail strata council members or place correspondence for strata council members outside of or under the strata council members' strata lot doors.

85. Within 14 days of the date of this order, I order Hans Heise to pay the strata a total of \$62.50 in CRT fees.

86. I refuse to resolve the strata's counterclaims about defamation.

87. I dismiss the strata's remaining counterclaims.

88. I dismiss Hans Heise's claims.

89. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, the order can be enforced through the British Columbia Provincial Court if it is an order for financial compensation or return of personal property under \$35,000. Once filed, a CRT order has the same force and effect as an order of the court that it is filed in.

David Jiang, Tribunal Member

Amendment Notes

ⁱ Paragraphs 75 and 83 have been amended to correct an inadvertent omission under section 64 of the *Civil Resolution Tribunal Act*.