



DEFAULT DECISION AND ORDER

(This shaded box is for CRT use only)

DISPUTE NUMBER: ST-2021-005618

DISPUTE AREA: Strata

DATE OF DECISION: October 4, 2021

TRIBUNAL MEMBER: Sarah Orr

Enter the names of all applicants and respondents, exactly as they appear on the Dispute Notice. Separate names with a comma (for example, "John Doe, Jane Doe").

*** BETWEEN APPLICANT(S):** JILL PETERSON, MATTHEW PETERSON

*** AND RESPONDENT(S):** The Owners, Strata Plan KAS 3860

Part A: Monetary Claims and Orders

You can only claim what's in the Dispute Notice. Don't add new claims. You can enter a lower amount than you claimed in the Dispute Notice, but not a higher amount. Don't include your CRT fees and dispute-related expenses in your claim totals – enter those in Part C of this form.

Description	Claim Amount (\$)	(CRT use only) Order Amount (\$)
* Claim 1 summary (enter the Claim Summary from the Dispute Notice): Strata not enforce bylaws. Requested a hearing on May31 with 2 reminders and no response. Not able to have windows,door open or use of patio due to daily cig and weed smoke coming from an illegal renter	\$ 5,000.00	\$ 5,000.00
Claim 2 summary (enter the Claim Summary from the Dispute Notice): -----	\$	\$
Claim 3 summary (enter the Claim Summary from the Dispute Notice): -----	\$	\$



Part B: Non-Monetary Claims and Orders

You can only claim what's in the Dispute Notice. Don't add new claims or use this space to explain more about your claims. If you filled out Part A (Monetary Claims), don't add the same claims here.

Description

Claim 1 summary of what you want the respondent(s) to do or stop doing (*enter the short Requested Resolution from the Dispute Notice*):

An order to the strata to enforce smoking bylaw. 3(9) 3(1)(a) 3(1)(c) Our first complaint was April 16th and since never been rectified. Requested a hearing on May 31st and been ignored.

If you named more than 1 respondent in your dispute, which respondent is this claim for?

Why do you want them to do or stop doing this (*maximum 100 characters*)?

Claim 2 summary of what you want the respondent(s) to do or stop doing (*enter the short Requested Resolution from the Dispute Notice*):

If you named more than 1 respondent in your dispute, which respondent is this claim for?

Why do you want them to do or stop doing this (*maximum 100 characters*)?

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CRT Decision on Non-Monetary Order:

CRT: Non-monetary claim addressed below.

Part C: Dispute-Related Fees and Expenses

You can claim CRT filing fees and reasonable dispute-related expenses you paid to prepare for the CRT process. Generally, the CRT won't order reimbursement of fees paid to a lawyer or other representative or for your time spent dealing with the dispute.

If you're claiming more than \$50, include receipts. But you don't need to include receipts for CRT fees.

Description	Expense Amount (\$)	(CRT use only) Order Amount (\$)
Fees paid to the CRT. (<i>You don't need to include receipts for these.</i>)	\$ 150.00	\$ 150.00
Service fees, if you served the Dispute Notice yourself. For example, fees for registered mail or a courier.	\$	\$
Total cost of expert reports to support your claim. (<i>Include the reports with your form.</i>)	\$	\$
Other dispute-related expenses (<i>briefly describe the expenses and how they relate to your dispute</i>):	\$	\$
Total amount of claimed fees and expenses.	\$ 150.00	\$ 150.00

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CRT Decision on Dispute-Related Fees and Expenses: \$ 150.00

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Part D: Interest		
Description	Interest	(CRT use only) Interest Order
<input type="checkbox"/> Check this box if you waive interest. If you check this box, don't enter anything else in this Part.		
The interest accrual date. In the Dispute Notice, this is the line "When interest started applying to the amount owing".	Date:	
Specified interest rate. Enter this if the strata corporation's bylaws allow for a specific interest rate, and only if you claimed this rate in the Dispute Notice.	%	%
If you haven't waived interest, the strata corporation bylaws don't include an interest rate, the CRT will calculate interest according to the Court Order Interest Act .		
Principal amount owing as of the Dispute Notice date, not including interest.	\$	\$
(This shaded line is for CRT use only) Amount of specified interest, from the date interest arose to the date of this decision.	\$	
(This shaded line is for CRT use only) Amount of court-ordered interest, from the date interest arose to the date of this decision.	\$	
(This shaded box is for CRT use only) <div style="text-align: right;"> CRT Decision on Total Interest Amount: \$ n/a </div>		

Part E: Total Monetary Order
(This shaded box is for CRT use only) <div style="text-align: right;"> CRT Total Monetary Order Amount: \$ 5,150.00 </div> <p>The applicant is also entitled to post-judgment interest as provided under the <i>Court Order Interest Act</i>.</p>



CRT Default Decision and Order

The applicants applied for strata property dispute resolution with the Civil Resolution Tribunal (CRT) and requested a default decision and order of the CRT. The following is the CRT's default Decision and Order.

CRT DECISION

Proof of Notice:

1. A respondent must respond to a Dispute Notice within 14 days of receiving the Dispute Notice, as indicated on the Dispute Response Form or as permitted by the CRT.
2. Having reviewed the evidence, I am satisfied, on the balance of probabilities, that the respondent received the Dispute Notice and did not respond to it by the deadline set out in the CRT's rules. This means the respondent is in default, as defined in section 1(1)(a) of the *Civil Resolution Tribunal Act* (CRTA).

Jurisdiction:

3. The CRT's strata property jurisdiction is set out in section 121 of the CRTA. The applicable CRT rules are those in place at the time the Dispute Notice was issued.
4. In a default decision such as this one, the CRT will make a binding decision without the participation of the respondent. The CRT will send the parties a copy of the final decision and order.
5. Under the CRTA and the CRT's rules, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate.



Decision:

6. Liability is assumed in default decisions. Since the respondent is in default, I find in favour of the applicants.
7. The applicants claim \$5,000 for the respondent's failure to enforce its bylaws in relation to a neighbour's smoking. I find the claimed \$5,000 is for nuisance damages stemming from the loss of reasonable use and enjoyment of the applicants' strata lot.
8. In accordance with the CRTA and the CRT's rules, I find the respondent must pay the applicants the monetary amounts as set out in the preceding pages. This amount is payable immediately.
9. The applicants also ask for a non-monetary order for the respondent to enforce its smoking bylaw 3(9), 3(1)(a) and 3(1)(c). The respondent is already required to enforce all its bylaws as specified in section 26 of the *Strata Property Act*. However, since this is a default decision, I grant the applicants' request and order the respondent to enforce bylaws 3(9), 3(1)(a) and 3(1)(c).

CRT ORDER

10. In accordance with the CRTA and the CRT's rules, I order the respondent to immediately pay the applicants the monetary orders set out in the preceding pages. The applicants are also entitled to post-judgment interest, as applicable.
11. I also order the respondent to enforce bylaws 3(9), 3(1)(a) and 3(1)(c).

12. 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.

Sarah Orr, Tribunal Member