



Civil Resolution Tribunal

Date Issued: April 25, 2022

File: ST-2021-007956

Type: Strata

Civil Resolution Tribunal

Indexed as: *Pike v. The Owners, Strata Plan Vr. 215*, 2022 BCCRT 478

B E T W E E N :

RYAN PIKE

APPLICANT

A N D :

The Owners, Strata Plan Vr. 215

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell, Vice Chair

INTRODUCTION

1. This strata property dispute is about bylaw fines.
2. The applicant, Ryan Pike, owns strata lot 9 (SL9) in the respondent strata corporation, The Owners, Strata Plan Vr. 215 (strata). Mr. Pike says the strata improperly imposed

3 separate \$200 fines for alleged noise bylaw violations. Mr. Pike says he did not break any bylaws, and requests orders that the strata reverse the bylaw fines, and remove the “unfounded noise complaints”.

3. The strata says Mr. Pike performed strata lot renovation work beyond the hours permitted under the bylaws, resulting in noise complaints from neighbours on multiple occasions. The strata says the bylaw fines were justified, and Mr. Pike’s claim should be dismissed.
4. Mr. Pike is self-represented in this dispute. The strata is represented by a strata council member.
5. For the reasons set out below, I find in favour of Mr. Pike and order the strata to remove the fines from his strata lot account.

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). CRTA section 2 says the CRT’s mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT must apply principles of law and fairness, and recognize any relationships between the dispute’s parties that will likely continue after the CRT process has ended.
7. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT’s mandate which includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness.
8. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, even where the information would not be

admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

9. Under CRTA section 123, 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.

Preliminary Issue – Additional Bylaw Fines

10. In his dispute application, Mr. Pike mentioned only 1 bylaw fine, totaling \$200. In his later submissions in this dispute, Mr. Pike says the strata imposed 3 separate fines of \$200 each, and he requests an order that all 3 fines be reversed.
11. Based on the evidence and submissions before me, I find the strata was aware of this expanded claim, did not object to it, and had an opportunity to respond to it. For these reasons, and based on the CRT's mandate of speedy, economical, informal, and flexible dispute resolution, I find it is most efficient to address all 3 bylaw fines in this decision. I have therefore done so.

ISSUES

12. The issues in this dispute are:
 - a. Must the strata remove any written complaints from its records?
 - b. Must the strata reverse any bylaw fines imposed on Mr. Pike?

REASONS AND ANALYSIS

13. In a civil claim like this one, Mr. Pike, as applicant, must prove his claims on a balance of probabilities (meaning "more likely than not"). I have read all the parties' evidence and submissions, but below I only refer to what is necessary to explain my decision.

14. The strata repealed and replaced its bylaws by filing new bylaws with the Land Title Office in 2012. The strata filed some bylaw amendments after that, which I find are not relevant to this dispute. I discuss the applicable bylaws in my reasons below.

Written Complaints

15. The evidence shows that some strata residents sent the strata written complaints about alleged noise from SL9. This is permitted under *Strata Property Act* (SPA) section 135(1)(d).

16. Mr. Pike requests an order that the strata “remove” these complaints, which I infer means he wants the strata to destroy the documents. I find this is not permitted under the *Strata Property Act* (SPA).

17. Read together, SPA section 35(2)(k) and *Strata Property Regulation* (Regulation) section 4.1(5) say the strata must retain copies of all correspondence it sends or receives for at least 2 years.

18. I find that written bylaw complaints are “correspondence”. Therefore, under the SPA and Regulation, the strata must keep copies of all written complaints for at least 2 years. So, I do not grant Mr. Pike’s requested remedy that the strata remove the complaints.

Bylaw Fines

19. In an email to Mr. Pike, the strata manager wrote that there was excessive noise coming from SL9 at the following times:

- August 25, 2021, 11:00 pm
- September 26, 2021, 8:30 pm
- September 27, 2021, 8:30 pm

20. The strata’s email cited bylaw 3(1), which says in part that an owner, tenant, occupant, or visitor must not use a strata lot in a way that causes a nuisance or hazard to another person, causes unreasonable noise, or interferes with another person’s

use and enjoyment of a strata lot or common property. The email also cited another bylaw, which says renovations can only occur from April 1 to November 30 each year, between the hours of 8:00 am to 6:00 pm on weekdays and 10:00 am to 6:00 pm on weekends. The email incorrectly listed this as bylaw 3, but the evidence shows it is actually bylaw 31(3). I find nothing turns on the numbering.

21. The strata's email said Mr. Pike could respond to the complaint in writing or at a strata council hearing. It said "a bylaw infraction will carry a fine of \$200". Mr. Pike requested a hearing.
22. After the strata council hearing, the strata manager emailed Mr. Pike again on October 13, 2021. The email said the council had decided to "enforce the noise complaints" and issue 3 separate \$200 fines.
23. In making this decision, the strata appeared to rely solely on written complaints received from other strata occupants. The parties agree that Mr. Pike was having SL9 renovated at the time in question. Mr. Pike denies there was excessive noise, and says SL9 was unoccupied during at least 1 time noise was alleged. Mr. Pike says the complaints and fines were retaliation for various things that I need not detail here.
24. I find the strata's fines cannot stand, for the following reason. Strata bylaw 32 states as follows:

Notwithstanding any other remedies available to the strata corporation...any occurrence of excessive noise and/or nuisance by the owner, guests or invitees of a strata lot...will result in the following:

First Offence: Verbal Warning

Second Offence: If the noise and/or nuisance continues after the verbal warning, the next step will be to contact the Rental Manager/owner of the offending unit, who may then choose to whether or not to proceed with eviction. A fine will be levied against the Strata Lot owner in the amount of \$150.00...

25. To the extent that bylaw 32 permits fining an owner for excessive noise made by a tenant, it is likely unenforceable. See SPA sections 121(1)(a) and 130(1). However, bylaw 32 requires a verbal warning before a fine is issued for a noise incident, and sets out a maximum fine of \$150 per occurrence for noise and nuisance.
26. The strata's initial email to Mr. Pike specifically says the alleged bylaw violation was for "excessive noise emanating from your suite". Therefore, I find that bylaw 32 applies. There is no evidence that the strata gave Mr. Pike the required verbal warning, and it fined him \$200 for each occurrence, rather than the maximum of \$150 set out in bylaw 32.
27. For these reasons, I find that that the strata imposed fines contrary to bylaw 32. So, I conclude the fines cannot stand.
28. The evidence indicates that Mr. Pike has not yet paid the fines. So, I order the strata to reverse the 3 \$200 noise bylaw fines from his strata lot account.

CRT FEES AND EXPENSES

29. As Mr. Pike was largely successful in this dispute, in accordance with the CRTA and the CRT's rules I find he is entitled to reimbursement of \$225.00 in CRT fees. Neither party claimed dispute-related expenses, so none are ordered.
30. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses to Mr. Pike.

ORDERS

31. I order the strata to immediately reverse the 3 \$200 bylaw violation fines from Mr. Pike's strata lot account.
32. Within 30 days of this decision, the strata must reimburse Mr. Pike \$225 for CRT fees.
33. Mr. Pike is entitled to postjudgment interest under the *Court Order Interest Act*, as applicable.

34. Under CRTA section 57, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under CRTA section 58, 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.

Kate Campbell, Vice Chair