



Civil Resolution Tribunal

Date Issued: August 24 2022

File: ST-2021-005465

Type: Strata

Civil Resolution Tribunal

Indexed as: *Mason v. The Owners, Strata Plan Strata Plan 200*, 2022 BCCRT 951

B E T W E E N :

JOHN CHRISTOPHER MASON

APPLICANT

A N D :

The Owners, Strata Plan 200

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell, Vice Chair

INTRODUCTION

1. This strata property dispute is about water leaks.
2. The applicant, John Christopher Mason (owner), owns strata lot 52 (SL52) in the respondent strata corporation, The Owners, Strata Plan 200 (strata).

3. The owner says SL52 has been affected by 4 plumbing leaks. The owner says he is not responsible for any of the leaks, and the strata wrongfully charged him for leak repair costs. He also says the strata's plumber removed his dishwasher without permission.
4. As remedies in this dispute, the owner requests reversal of \$7,020.00 in leak repair chargebacks and a written apology.
5. The strata denies the owner's claims. It says the owner is responsible for the leaks, as they came from SL52.
6. The owner is self-represented in this dispute. The strata is represented by a strata council member.
7. For the reasons set out below, I dismiss the owner's claims.

JURISDICTION AND PROCEDURE

8. 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.
9. 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.
10. 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.

11. 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.

Limitation Period

12. In a January 27, 2022 preliminary decision, a CRT member dismissed the owner's claim for \$1,000.00 for a replacement dishwasher. The member found the claim was barred under the *Limitation Act* because it was filed too late.
13. I agree with the reasoning in the preliminary decision, and confirm it. This is particularly true since in his submissions, the owner says he replaced the dishwasher in June 2008. The owner also provided receipts in evidence, which show a dishwasher purchase in June 2013. In either case, these events occurred well outside the limitation period for a CRT dispute filed on July 12, 2021. So, the limitation period expired before the dispute was filed.
14. Since I confirm the CRT member's preliminary decision to dismiss the dishwasher replacement claim, I have not addressed it further in this decision.
15. In the preliminary decision, the member found that there was insufficient evidence at the preliminary stage to determine whether the owner's claim for reversal of leak repair chargebacks was barred under the *Limitation Act*. Having now received the parties' full evidence and submissions, I address that issue below.

ISSUE

16. The issues in this dispute are:
 - a. Was the owner's claim for reversal of leak repair chargebacks filed too late?
 - b. If not, must the strata reverse \$7,020.00 in leak repair chargebacks?

- c. Must the strata provide a written apology?

REASONS AND ANALYSIS

17. In a civil claim like this one, the owner, 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.

Was the owner's claim for leak repair chargebacks filed too late?

18. The owner requests an order that the strata reverse \$7,020.00 in leak repair chargebacks. The strata says it only charged back \$3,843.84 for leak repairs, but says that in any event the owner's claim is barred under the *Limitation Act* because it was filed too late.

19. For the following reasons, I agree with the strata, and find the owner's claim for reversal of leak repair chargebacks is barred under the *Limitation Act*.

20. The strata provided a statement of account for SL52, showing transactions for the period from February 2016 to April 2022. That document indicates that the only chargeback was imposed on January 31, 2019. The statement of account shows a chargeback of \$3,843.84 for “plumbing & water damage”. This is consistent with a January 2, 2019 invoice the strata provided in evidence, from ProPacific DKI (ProPacific), for \$3,843.84. The ProPacific invoice indicates that the charges were for an emergency water extraction and remediation callout on December 15, 2018.

21. The owner has not specifically disputed the accuracy of the statement of account or ProPacific's invoice. He has not provided correspondence, invoices, or other documents showing that the strata charged him \$7,020.00 for leak repairs.

22. Based on the evidence before me, I accept that the strata only imposed a \$3,843.84 chargeback on January 31, 2019.

23. The *Limitation Act* sets out limitation periods, which are specific time limits for pursuing claims. If the time limit expires, the right to bring the claim disappears, and the claim must be dismissed.
24. Section 6 of the *Limitation Act* says that for claims arising after June 1, 2013, the basic limitation period is 2 years. This means a claim may not be started more than 2 years after the day on which it is discovered. A claim is “discovered” when the applicant knew or reasonably should have known they had a claim against the respondent and a court or tribunal proceeding was an appropriate remedy.
25. From the evidence before me, it is unclear exactly when the strata informed the owner about this chargeback. There is no correspondence about this issue. However, in its Dispute Response Form, the strata said it sent the owner a “further” letter explaining the chargeback in May 2019. The owner did not specifically dispute this, so I accept it. So, I find the owner discovered his claim about the chargeback by May 31, 2019.
26. The owner filed this CRT dispute on July 12, 2021. This means that the dispute was filed after the 2 year limitation period expired.
27. I note that the *Limitation Act* only applies to “a claim to remedy an injury, loss or damage that occurred as a result of an act or omission”. I have considered whether the owner’s claim for an order that the strata reverse the chargeback fits within this definition of “claim”. I find that it is. While the owner has not yet paid the chargeback, I find it is a liability or debt on his account, and is therefore essentially the same as a debt or damage claim.
28. In making this finding, I note that if the strata had filed a claim seeking payment of the chargeback, that would essentially be a debt claim, subject to the 2-year limitation period. I find it would be unfair and unreasonable for the strata’s potential claim to be subject to the *Limitation Act*, but the owner’s corollary claim for removal of that debt not to be subject to any limitation period.
29. I also note that while the BC Supreme Court has said that penalties (including strata bylaw fines) and claims for declaratory orders are not claims for the purposes of the

Limitation Act, this dispute involves neither a penalty nor a claim for a declaratory order. Rather, the remedy sought by the owner is for an injunctive order (an order to do or stop doing something).

30. For all of these reasons, I find that the owner's claim for reversal of the \$7,020.00 chargeback is barred under the *Limitation Act* because it was filed too late. I therefore dismiss the claim.
31. As discussed above, it is likely that any claim filed by the strata to collect the chargeback would also be barred under the *Limitation Act*. But I make no findings about that, because the strata did not file a counterclaim.

Order for an Apology

32. The owner also requests an order that the strata apologize in writing for "harassing billings". I dismiss this claim, for the following reasons.
33. First, I find this claim is likely also barred under the *Limitation Act*, for the reasons explained above.
34. Second, I find the owner provided no evidence showing harassment. His only evidence was some receipts for dishwashers, and a brief letter from an insurance representative. Similarly, the strata's evidence showed no harassment. It consisted primarily of photos showing water damage, some invoices, and the statement of account.
35. Third, the CRT does not generally order apologies because a forced apology is likely not productive or helpful.
36. So, I dismiss this claim.

CRT FEES AND EXPENSES

37. Under CRTA section 49 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. The strata is the successful party. It paid no CRT fees and claims no dispute-related expenses, so I award no reimbursement.

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

ORDER

39. I dismiss the owner's claims and this dispute.

Kate Campbell, Vice Chair