



Civil Resolution Tribunal

Date Issued: August 30, 2022

File: ST-2021-004743

Type: Strata

Civil Resolution Tribunal

Indexed as: *Kaur v. The Owners, Strata Plan LMS 810*, 2022 BCCRT 968

B E T W E E N :

HARPARMINDER PUMMY KAUR

APPLICANT

A N D :

The Owners, Strata Plan LMS 810

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. The applicant, Harparminder Kaur, owns strata lot 5 in the respondent strata corporation, The Owners, Strata Plan LMS 810 (strata).
2. Ms. Kaur says three strata council members have been targeting her significantly unfairly, “policing and citing” her for “no violations”, attempting to fine her and charge

her for alleged damages, recording her with unlawful cameras, attempting to dismantle her garden, lying to owners, violating her privacy, threatening her, denying her access to council meetings and documents, and discussing her alleged bylaw violations in an open meeting. Ms. Kaur says the strata council members have far exceeded the powers granted by the *Strata Property Act* (SPA), and says their unfair and harsh conduct violates the SPA, strata bylaws, and other BC and Canadian laws.

3. Ms. Kaur asks for the Civil Resolution Tribunal (CRT) to order the strata to provide her with the complaint letter against her and its documented authority to install cameras and surveil her. Failing that, Ms. Kaur asks for an order that the strata rescind all bylaw violation allegations and fines, withdraw its vandalism complaint, and remove its camera.
4. The strata disputes Ms. Kaur's claims and says it has done nothing wrong.
5. Ms. Kaur is self-represented. The strata is represented by a strata council member.

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 that 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. Under CRTA section 10, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction.
9. 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.
10. 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.

ISSUES

11. The issues in this dispute are:
 - a. Does the CRT have jurisdiction to resolve Ms. Kaur's claims?
 - b. Should the CRT order the strata to provide the complaint letter?
 - c. Should the CRT order the strata to rescind all fines and violations, and withdraw its vandalism complaint?

EVIDENCE AND ANALYSIS

12. In a civil proceeding such as this one, as the applicant Ms. Kaur must prove her claims on a balance of probabilities (meaning more likely than not). The strata did not provide any submissions in this dispute, despite being provided with the opportunity to do so. I have read all of Ms. Kaur's submissions and the parties' evidence, but I only refer to what I find relevant to provide context for my decision.
13. The strata filed consolidated bylaws in the Land Title Office on August 5, 2003. The strata has filed bylaw amendments since that time, but none are relevant to this dispute.

Does the CRT have jurisdiction over Ms. Kaur's claims?

Claims against strata council members

14. Ms. Kaur's claims as set out in her application for dispute resolution and submissions specifically refer to three strata council members, DO, SE, and HW. Based on her submissions I find she alleges, in part, that three strata council members have acted in bad faith contrary to SPA section 31. Although not entirely the same, I note that several of her allegations against strata council members mirror and overlap allegations she made in ST-2020-003638, a previous CRT dispute with the same parties. See *Kaur v. The Owners, Strata Plan LMS810*, 2021 BCCRT 1076. For the following reasons, I dismiss Ms. Kaur's SPA section 31 claims. Therefore, I find it is unnecessary for me to also consider whether any of these claims are *res judicata* (already decided).
15. SPA section 31 sets out the standard that strata council members must meet in performing their duties. It says that each council member must act honestly and in good faith, with a view to the best interests of the strata, and exercise the care, diligence, and skill of a reasonably prudent person in comparable circumstances.
16. In *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32 at paragraph 267, the B.C. Supreme Court (BCSC) found that the duties of strata council members under section 31 are owed to the strata corporation, and not to individual strata lot owners. This means that an owner has no standing, or legal right, to make a claim against a strata council member for SPA section 31 breaches. More recently in *Rochette v. Bradburn*, 2021 BCSC 1752 at paragraph 82, the BCSC confirmed that the SPA does not allow another strata owner to sue for section 31 violations.
17. Therefore, to the extent that Ms. Kaur's claims are based on any alleged breaches of SPA section 31 by individual strata council members, I dismiss them.

Surveillance camera claim

18. Ms. Kaur alleges that the strata installed a camera aimed at a light outside her bedroom window and her patio, on what I infer is the strata's common property. She

says the strata captured and shared videos of her near the light without due process, contrary to the *Personal Information Protection Act* (PIPA).

19. As noted, in her application for dispute resolution, Ms. Kaur asks for an order that the strata provide her with its documented authority to install cameras and surveil her. Failing this, she asks for an order that the strata remove the camera.
20. Under section 121(1) of the CRTA, the CRT's strata property jurisdiction is limited to claims under the SPA. The strata has no surveillance bylaws, and Ms. Kaur does not allege that the strata's alleged surveillance camera contravenes any bylaw or the SPA. Rather, as noted, she asks for the strata to either provide its legal authority to install the cameras and surveil her or remove the cameras. I find Ms. Kaur's surveillance camera claim is properly a claim under PIPA, not the SPA. Under section 10(1) of the CRTA, the CRT must refuse to resolve a claim that it considers is not within the CRT's jurisdiction. Accordingly, I refuse to resolve Ms. Kaur's surveillance camera claim.

Previous CRT and BC Supreme Court orders

21. Ms. Kaur's submissions also include allegations that the strata is in contempt of CRT orders from ST-2020-003638 and a BC Supreme Court order. Under CRTA sections 57 and 58, only the BC Supreme Court and BC Provincial Court have authority to enforce CRT orders. This means the CRT does not have authority to enforce its own orders. CRTA section 60 says that a person who fails or refuses to comply with a CRT 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. The CRT also does not have authority to enforce BC Supreme Court orders, which must be enforced under the *Supreme Court Civil Rules*.
22. Ms. Kaur does not request any remedies in relation to these contempt allegations. However, even if she did, I find that any alleged contempt of a CRT order or BC Supreme Court order are within the BC Supreme Court's jurisdiction. So, I would refuse to resolve these claims under CRTA section 10.

Ms. Kaur's remaining claims and requested remedies

23. Much of Ms. Kaur's submissions detailed various "council violations" for which she requested no remedy. At the end of her submissions, Ms. Kaur explicitly acknowledged that "not all council violations are under the CRT's jurisdiction for ruling". However, she did not identify which of the alleged violations she says are within the CRT's jurisdiction. Rather, she asked for the CRT to exercise its powers to order the strata to "render owner complaints" and failing that, order the strata to issue a written statement that all violation notices to her are rescinded and a vandalism complaint against her is withdrawn.
24. Given that Ms. Kaur expressly acknowledged in her submissions that many of her allegations are outside the CRT's jurisdiction, I find it is unnecessary for me to further detail the alleged violations, except to the extent that they are relevant in determining whether the CRT should grant any of Ms. Kaur's requested remedies.
25. As noted, the only remaining remedies Ms. Kaur seeks are orders that the strata provide the complaint letter, rescind all violations and fines, and withdraw its vandalism complaint. I will now address whether the CRT should grant any of these requested remedies.

Complaint letter

26. In her application for dispute resolution, Ms. Kaur asked for an order that the strata "render complaint letter" against her. However, she did not clearly identify which complaint letter she was asking for. In her submissions, she refers to an April 28, 2021 complaint letter from another strata lot owner about Ms. Kaur's use of a common property garden. So, I find the April 28, 2021 letter is the complaint letter Ms. Kaur requests. I note that the letter's author is also one of the strata council members who Ms. Kaur alleges has targeted her.
27. Ms. Kaur says that the strata provided her with the April 28, 2021 complaint letter in February 2022, after she started this CRT dispute. She included a copy of the April 28, 2021 complaint letter in evidence in this dispute. Ms. Kaur did not identify or

request any other complaint letter. So, I find no further order is necessary, and I dismiss this claim.

Should the CRT order the strata to rescind all violations and fines, and withdraw its vandalism complaint?

28. As noted, Ms. Kaur asks for orders that the strata rescind all violations and fines and withdraw a vandalism complaint made against her. For the following further reasons, I decline make any of the requested orders.

Fines

29. Ms. Kaur asks for an order that the strata rescind all fines against her. However, the evidence does not show that the strata imposed any fines on Ms. Kaur. Therefore, this claim is unproven, and I dismiss it.

Violations

30. Ms. Kaur also asks for an order that the strata rescind all “violations”. Ms. Kaur does not identify the “violations” that she wants rescinded. I infer from her submissions and evidence that Ms. Kaur asks that the strata rescind any letters it sent to Ms. Kaur about alleged bylaw violations and other issues. However, I see no reason to order the strata to rescind correspondence it has already sent to Ms. Kaur, as I find it would serve no purpose. So, I dismiss Ms. Kaur’s claim for the strata to rescind all violations.

Vandalism complaint

31. Finally, Ms. Kaur also asks for an order that the strata withdraw its vandalism complaint. Ms. Kaur says the strata council made a vandalism complaint to the RCMP and she was questioned by the RCMP. I find this is the vandalism complaint that she wants withdrawn.

32. An RCMP general occurrence synopsis in evidence indicates that someone called the RCMP to report mischief to a new light installed on the strata’s property, and reported that Ms. Kaur was observed on video surveillance tampering with a light. It indicates that the RCMP spoke to Ms. Kaur about the light, and asked her to direct

her concerns to the strata council and not physically remove the light. The synopsis indicates that the file was “concluded”.

33. The RCMP complaint does not identify the person or entity that made the complaint, so I find it unproven that the strata made the complaint. Finally, even if the strata did make the complaint, I find it would not be productive or helpful to order the strata to withdraw a concluded RCMP complaint. So, I dismiss Ms. Kaur’s claim for the strata to withdraw its vandalism complaint.

Additional request for written statement

34. In her submissions, Ms. Kaur asks the CRT to order the strata to issue a written statement that all violation notices to Ms. Kaur are rescinded and the vandalism complaint is withdrawn. The request for a written statement was not included in her application for dispute resolution. However, she did ask for an order that the strata rescind all violations and fines, and withdraw its vandalism complaint. Given these issues were raised in the application for dispute resolution, I find her request for a written statement does not raise any new issues and is properly before me. I have already dismissed Ms. Kaur’s claims for the strata to rescind all fines and violations, and withdraw its vandalism complaint. Therefore, I decline to order the strata to provide the requested written statement.

CRT FEES AND EXPENSES

35. 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. Ms. Kaur was unsuccessful in her claims, so I find she is not entitled to any reimbursement of CRT fees. The strata did not pay any CRT fees, so I award none.
36. Ms. Kaur also claims reimbursement \$1,761.52 in legal fees. In submissions Ms. Kaur said that she incurred these legal fees to try all legal means to stop “these councillors” from further violating laws and unfairly attacking her in various ways. As noted, I have already found that Ms. Kaur has no legal standing (right) to make claims against strata

council members for breaches of their SPA section 31 duties. Given her submissions, I find her legal fees were likely incurred, at least in part, on the SPA section 31 claims that I have dismissed. Ms. McLean was unsuccessful in her remaining claims in any event. So, I find she is not entitled to reimbursement of any dispute-related expenses, including her claimed legal fees. The strata did not claim any dispute-related expenses, so I award none.

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

ORDERS

38. Under CRTA section 10, I refuse to resolve Ms. Kaur's surveillance camera claim.

39. I dismiss Ms. Kaur's remaining claims.

Leah Volkens, Tribunal Member