



Civil Resolution Tribunal

Date Issued: December 1, 2023

File: ST-2022-005001

Type: Strata

Civil Resolution Tribunal

Indexed as: *Wei v. The Owners, Strata Plan BCS945*, 2023 BCCRT 1047

B E T W E E N :

DAWEI WEI

APPLICANT

A N D :

The Owners, Strata Plan BCS945

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Peter Mennie

INTRODUCTION

1. This dispute is about an alleged overpayment of strata fees and an interest charge.
2. The applicant, Dawei Wei, owns a strata lot in the respondent strata corporation, The Owners, Strata Plan BCS945 (strata). Mr. Wei says the strata overcharged strata fees causing him to incur interest and a non-sufficient funds (NSF) penalty.

3. The strata says this tribunal already decided these issues.
4. Mr. Wei is self-represented in this dispute. The strata is represented by a strata council member.
5. For the reasons that follow, I dismiss Mr. Wei's claim.

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.
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. 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.
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.

ISSUES

10. The issues in this dispute are:
 - a. Has the CRT already decided this matter?

- b. If the CRT has not decided this matter, did the strata overcharge Mr. Wei strata fees or interest entitling him to a refund?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant Mr. Wei must prove his claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
12. Mr. Wei says that in August 2020 the strata overcharged his strata fees by \$146.85. After stopping automatic payments to the strata from his bank account, Mr. Wei sent cheques instead. He says the strata did not deposit his cheques and instead charged him interest and an NSF penalty. Mr. Wei also says he overpaid his strata fees by \$114.04 in May 2021. In his submissions, Mr. Wei seeks a refund of twice this amount (\$228.08) plus interest.
13. Mr. Wei's Dispute Notice says that the strata's building manager sent him an \$89.63 invoice for the "company crt fee". None of Mr. Wei's documentary evidence has an invoice for \$89.63, though this was the balance owing by Mr. Wei to the strata in June 2022 for unpaid interest, the NSF penalty, and outstanding strata fees. Mr. Wei's Dispute Notice claims \$129 as a monetary remedy, however it is not clear from his submissions how he arrived at this total. From his submissions and the evidence he provided, I infer that Mr. Wei's claims in this matter relate to alleged overpayments of strata fees in 2020 and 2021 and the interest and NSF penalty he paid.
14. Mr. Wei made these same claims in two previous disputes in this tribunal. In *Wei v. The Owners, Strata Plan BCS945*, 2021 BCCRT 960 (the 2021 decision), the tribunal member found that Mr. Wei owed the strata interest and was not entitled to any refund for an overpayment of strata fees. In *Wei v. The Owners, Strata Plan BCS945*, 2022 BCCRT 294 (the 2022 decision), the tribunal member found that *res judicata* (meaning "a matter judged") applied and Mr. Wei could not pursue claims already

decided in the 2021 decision. The tribunal member applied cause of action estoppel and dismissed Mr. Wei's claim.

15. In Mr. Wei's reply submissions, he says that the 2021 decision found that he had not provided evidence of being overcharged by the strata. He says he is submitting evidence now as an appeal. However, the CRT cannot hear an appeal of its own decision. Instead, CRT decisions are subject to judicial review by the Supreme Court of British Columbia.
16. As noted in the 2022 decision, cause of action estoppel requires:
 - a. a final decision of a court of competent jurisdiction in the prior action,
 - b. the parties to the subsequent litigation must have been parties to the prior action,
 - c. the cause of action and the prior action must not be separate and distinct; and
 - d. the basis of the cause of action and the subsequent action was argued or could have been argued in the prior action if the parties had exercised reasonable diligence.
17. I find that all four criteria are met. The 2021 decision dealt with the same issues and the same parties as in this dispute. While not binding upon me, I agree with the 2022 decision which held that the 2021 decision already decided the strata overpayment issue. So, I find that Mr. Wei's claims are barred by cause of action estoppel.
18. 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. I dismiss Mr. Wei's claims for reimbursement of CRT fees and dispute-related expenses. The strata did not pay any CRT fees or dispute-related expenses, so I award no reimbursement.

ORDERS

19. I dismiss Mr. Wei's claims and this dispute.

Peter Mennie, Tribunal Member