



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Champoux v. The Owners, Strata Plan EPS5773*, 2024 BCCRT 522

B E T W E E N :

SARAH CHAMPOUX

APPLICANT

A N D :

The Owners, Strata Plan EPS5773

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Micah Carmody

INTRODUCTION

1. This dispute is about a strata lot owner's smart lock.
2. Sarah Champoux owns strata lot 367 in the strata corporation, The Owners, Strata Plan EPS5773 (strata). Mrs. Champoux installed a smart lock on the door between

her strata lot and the common property hallway. In late 2022, the strata asked Mrs. Champoux to remove the smart lock, saying she installed it without permission, contravening the strata's bylaws. At Mrs. Champoux's request, the strata held a council hearing about the smart lock, but insisted she had to remove it.

3. Mrs. Champoux wants an order that she can keep her smart lock. The strata says Mrs. Champoux cannot keep her lock. The strata did not file a counterclaim asking for any orders.
4. Mrs. Champoux represents herself. A council member represents the strata. As I explain below, I dismiss Mrs. Champoux's claim.

JURISDICTION AND PROCEDURE

5. 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). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving dispute, the CRT must apply principles of law and fairness. It must also recognize any relationships between parties that will continue after the CRT process has ended.
6. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconference, or a combination of these. Based on the evidence and submissions provided, I am satisfied that I can fairly decide this dispute without an oral hearing.
7. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court.

ISSUE

8. The issue is this dispute is whether the strata's refusal to retroactively approve Mrs. Champoux's smart lock was significantly unfair, and if so, what remedy is appropriate.

EVIDENCE AND ANALYSIS

9. As the applicant in this civil proceeding, Mrs. Champoux must prove her claims on a balance of probabilities, meaning more likely than not. While I have considered all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
10. The strata was created in 2020 and includes 497 strata lots. Mrs. Champoux owns strata lot 367 on the first level of a building. At some point, Mrs. Champoux replaced the original lock on the door to her strata lot with a smart lock that allowed entry with a code. She did not seek the strata's permission to install the smart lock. That much is undisputed.
11. The strata says on October 1, 2022, it received a complaint about Mrs. Champoux's smart lock. On October 12, 2022, the strata sent Mrs. Champoux a bylaw contravention letter. The letter said the applicable bylaw was bylaw 5(1), which says that an owner must obtain the strata's written approval before altering a strata lot that involves doors that front on the common property. Based on the strata plan, the definition of common property, and the photos in evidence, I find the door's exterior is common property. Therefore, the applicable bylaw is bylaw 6(1), which says that owners need the strata's written approval before altering common property. Nothing turns on the strata's initial failure to identify the correct bylaw given that it has not yet enforced the bylaw contravention. There is also bylaw 3(3)(c), which says that an owner must not install a lock on any door leading to a strata lot without the strata's written approval. The bylaws leave no doubt that Mrs. Champoux needed the strata's approval to install a new lock. Mrs. Champoux does not argue otherwise.
12. After a December 19, 2022 hearing, council advised Mrs. Champoux that it considered the smart lock an alteration made in contravention of the bylaws. The strata told Mrs. Champoux to reinstall the original lock within two weeks or she would face fines. The strata also said it may remove the smart lock at her expense. There is no evidence that the strata has done either of these things.
13. On December 26, 2022, Mrs. Champoux filed her application with the CRT.

14. I find that by asking for a strata council hearing, Mrs. Champoux effectively asked the strata for retroactive approval of her smart lock. The strata's bylaws say that the strata cannot unreasonably withhold approval of strata lot alterations, but as noted above this was a common property alteration. The bylaws do not impose the same reasonableness requirement for common property alterations, or for door lock installations under bylaw 3(3)(c). The only constraint on the strata's discretion is that it must not make a decision that is significantly unfair to an owner or tenant. So, the question before me is whether the strata's refusal to retroactively approve Mrs. Champoux's smart lock was significantly unfair to Mrs. Champoux.

Was the strata's refusal to retroactively approve Mrs. Champoux's smart lock significantly unfair?

15. The CRT has authority to make orders remedying a strata corporation's significantly unfair act or decision under CRTA section 123(2). The court has the same authority under section 164 of the *Strata Property Act* (SPA), and the same legal test applies (see *Dolnik v. The Owners, Strata Plan LMS 1350*, 2023 BCSC 113). In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the court confirmed that significantly unfair actions or decisions are those that are burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust, or inequitable. In applying this test, the owner's objectively reasonable expectations are a relevant factor but are not determinative.
16. The test for assessing an owner's reasonable expectations is from *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44:
- a. What was the owner's expectation?
 - b. Was that expectation objectively reasonable?
 - c. Did the strata violate that expectation with a significantly unfair action or decision?
17. Mrs. Champoux essentially makes arguments about why she should be allowed to keep the smart lock. The first is safety. Mrs. Champoux says that shortly after moving

into her strata lot, someone she knew broke in and awaited her arrival. She says the intruder was easily able to manipulate the original lock. Mrs. Champoux says the police and her lawyer recommended the smart lock that she installed. The strata says Mrs. Champoux never provided it with any objective evidence that this happened. Mrs. Champoux has not done so here either. She has not provided a police report or a smart lock recommendation. I find it unproven that the original lock could be easily manipulated to gain entry or was otherwise not secure.

18. Convenience is Mrs. Champoux's second argument. She says she travels often and uses the smart lock to let her housekeeper, pet sitter, secretary, and family members into her strata lot. I accept that a smart lock is convenient for Mrs. Champoux.
19. Third, Mrs. Champoux says her smart lock creates minimal visual disturbance. Photos confirm that the smart lock, which fits over the original lock, has the same finish as the original lock and handle. Mrs. Champoux also says that because her strata lot is near the end of the corridor, it is not seen by many residents. I accept that. However, anyone who looks at the lock would plainly see that it is a smart lock and not the original lock.
20. Despite the convenience and minimal visual disturbance created by the smart lock, I find an expectation that the strata would retroactively approve the smart lock was not objectively reasonable.
21. First, strata's bylaws give the strata broad discretion to withhold approval of common property alterations. The fact that the owners passed a specific bylaw prohibiting door lock alterations without strata approval indicates that the owners identified concerns about door lock changes in particular.
22. Second, the strata says that smart locks facilitate short-term accommodation use because they make it easy for owners to provide short-term occupants with an entry code without having to transfer a physical key. The strata's bylaws prohibit using strata lots for short-term accommodation. I find that if the strata were to approve one owner's smart lock request based on convenience, it would likely be more difficult to reject other owners' smart lock requests.

23. Third, there is no evidence that the strata has allowed other owners to change their locks, with one exception I address below. Mrs. Champoux refers to *Soong et al v. The Owners, Strata Plan NW 2583*, 2019 BCCRT 879. That CRT decision was about a strata corporation's discretion not to enforce its bylaws where the effect of the breach on other owners was trifling. Many owners in that strata corporation had, over the years, changed their door locks and handles. The CRT found that while the changes may have contravened the bylaws, the strata corporation was not required, at one owner's request, to insist that all other owners reverse the changes. I infer that Mrs. Champoux argues that this means that changing door locks without permission is a minor bylaw breach that she could reasonably expect the strata to overlook. However, the CRT in *Soong* found that the strata corporation had not previously enforced those bylaws strictly, so it was unreasonable for the applicants in that dispute to expect the strata corporation to suddenly do so. Here, there is no evidence that the strata has failed to enforce its door lock alteration bylaw, so it was not reasonable for Mrs. Champoux to expect the strata to treat her differently.
24. If I am wrong and Mrs. Champoux's expectations were reasonable, I would nonetheless find that the strata's decision was not significantly unfair. As noted above, Mrs. Champoux did not prove that her security concerns were warranted. While removing the smart lock would be inconvenient for her, that falls short of "burdensome" or "harsh" as it was put in *Kunzler*.
25. I also do not agree with Mrs. Champoux that strata has treated her differently from other residents. While the strata undisputedly allowed another resident to install a smart lock, the strata says that that resident asked for approval first, and it granted approval based on the resident's physical disability. The strata says it had a duty to accommodate that request under the *Human Rights Code*. There is no evidence that would suggest the same duty arises with Mrs. Champoux's request, so the strata's decision is not "unjust" or "inequitable".
26. Mrs. Champoux says the strata is targeting her in other ways. She says the strata wrote to her about her patio decorations. She says, without providing evidence, that nobody could have seen the decorations without being on her patio. I find the fact

that the strata received two complaints alleging Mrs. Champoux to have contravened two different bylaws is not compelling evidence that the strata is unfairly targeting Mrs. Champoux.

27. Although not specifically raised by Mrs. Champoux, I also considered that the strata took eight days to provide its decision on the smart lock. SPA section 34.1 requires such a decision to be provided within one week. The BC Supreme Court has observed that missing this deadline does not, by itself, give rise to significant unfairness but is part of the context to be considered when assessing whether a strata corporation's conduct was significantly unfair (see *Simon Fraser University Foundation v The Owners, Strata Plan BCS 1345*, 2021 BCSC 360, at paragraphs 51-53). I find the one-day delay was not burdensome or unjust in context, given that Mrs. Champoux continued to use her smart lock in that period and beyond.
28. Finally, Mrs. Champoux says the strata has continued to discuss smart locks and is now going to allow them. The strata says that it has not yet drafted the bylaw or presented it to owners for a vote. I find the strata's contemplation of a bylaw allowing smart locks does not mean its refusal to retroactively approve Mrs. Champoux's request was significantly unfair. Mrs. Champoux is subject to the current bylaws unless and until the owners amend them.
29. For these reasons, I find the strata's refusal to retroactively approve Mrs. Champoux's smart lock was not significantly unfair. I dismiss her claim.

CRT FEES AND EXPENSES

30. Based on the CRTA and the CRT's rules, as Mrs. Champoux was unsuccessful, I find she is not entitled to any CRT fee reimbursement. The strata did not pay CRT fees and neither party claims dispute-related expenses.
31. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses against Mrs. Champoux.

ORDER

32. I dismiss Mrs. Champoux's claims and this dispute.

Micah Carmody, Tribunal Member