



# Civil Resolution Tribunal

Date Issued: June 12, 2024

Files: ST-2023-003127 and  
ST-2023-008745

Type: Strata

Civil Resolution Tribunal

Indexed as: *Simpson v. The Owners, Strata Plan BCS 3591*, 2024 BCCRT 536

B E T W E E N :

JESSICA SIMPSON

**APPLICANT**

A N D :

The Owners, Strata Plan BCS 3591

**RESPONDENT**

A N D :

JESSICA SIMPSON

**RESPONDENT BY COUNTERCLAIM**

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## REASONS FOR DECISION

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Tribunal Member:

Megan Stewart

## INTRODUCTION

1. These two linked disputes are about bylaw enforcement. They consist of a claim and a counterclaim between the same parties, so I have issued one decision for both disputes.
2. Jessica Simpson owns a strata lot in the strata corporation, The Owners, Strata Plan BCS 3591 (strata). Ms. Simpson says the strata improperly enforced its bylaws against her in connection with her dog, Rexy. She says the relevant bylaws do not apply because Rexy is a service dog. Ms. Simpson also alleges discrimination under the *Human Rights Code* (Code) because the strata failed to accommodate her on the protected ground of disability. In ST-2023-003127, she asks for:
  - a. \$5,000, as compensation for the strata harassing her and interfering with Rexy on common property.
  - b. An order that the strata stop enforcing its bylaws against her in connection with Rexy.
  - c. An order that the strata stop interfering with Rexy.
3. The strata says Rexy is not a service dog under the *Strata Property Act* (SPA) or the *Guide Dog and Service Dog Act*, so Ms. Simpson is not exempt from its bylaws. The strata says Rexy acted aggressively towards people and animals on common property, and in response, it properly enforced its bylaws against Ms. Simpson. Further, the strata says there is no evidence Rexy is a support animal prescribed for a mental or physical disability, so it has no duty to accommodate her under the Code by exempting her from bylaw compliance. In ST-2023-008745, the strata asks for:
  - a. An order that Rexy be muzzled and kept on a leash no longer than six feet at all times while on common property.
  - b. A declaration that SPA section 123(3) does not apply to Rexy.

- c. A declaration that the strata does not have a duty to accommodate Ms. Simpson by exempting her from compliance with the pet bylaw in relation to Remy.
4. Ms. Simpson is self-represented. A strata council member represents the strata.

## **JURISDICTION AND PROCEDURE**

5. These are the Civil Resolution Tribunal's (CRT) formal written reasons. 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.
6. 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. The parties in this dispute question each other's credibility or truthfulness. However, disputes involving an assessment of the parties' credibility do not necessarily require an oral hearing.<sup>1</sup> Here, I find I am properly able to assess and weigh the documentary evidence and submissions before me to come to a decision. Bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find an oral hearing is not necessary in the interests of justice and fairness.
7. CRTA section 42 says the CRT may accept as evidence information it considers relevant, necessary, and appropriate, even where the information would not be admissible in court. I was unable to access some of Ms. Simpson's evidence, so, through CRT staff, I asked her to resubmit it in an accessible format. Ms. Simpson confirmed she too could no longer access the evidence, but she said she had submitted enough other documentation to demonstrate her disability. So, I did not consider the inaccessible evidence in coming to my decision.

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<sup>1</sup> *C.2K Holdings Ltd. v. The Owners, Strata Plan K 577*, 2019 BCSC 1981.

8. 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 issues***

9. Ms. Simpson says the strata improperly accessed security camera footage to enforce its pet bylaw against her contrary to the *Personal Information Protection Act* (PIPA). PIPA governs how private organizations, including strata corporations, collect, use, disclose, and protect personal information. Generally, the Office of the Information and Privacy Commissioner for B.C. (OIPC) has jurisdiction to decide whether a strata corporation has acted contrary to PIPA under section 36(2)(e). Ms. Simpson admits she raised this issue with the OIPC, and it is still under investigation. She does not ask for a remedy for the strata's alleged PIPA breach, so I decline to address her arguments about PIPA.
10. Ms. Simpson also says the CRT does not have jurisdiction to order the strata's requested remedies because the Code takes precedence over the *Guide Dog and Service Dog Act*. I agree the Code prevails. However, I disagree this means the CRT does not have jurisdiction to decide the strata's claims or order its requested remedies. SPA section 121(1) says a bylaw is unenforceable to the extent it contravenes the SPA or its regulations, the Code, or an enactment or law. The CRT has jurisdiction to interpret and apply SPA section 121(1).<sup>2</sup> Also, CRTA section 11(1)(d) says the CRT may refuse to resolve a claim or dispute within its jurisdiction that involves the Code. I find this means the CRT has discretion to resolve the strata's claims. For these reasons, I find the CRT has jurisdiction over the strata's counterclaim.
11. Finally, the strata says Ms. Simpson's claims should be dismissed for disclosing no reasonable chance of success or for being an abuse of process, under CRTA section 11(1)(b). I disagree. I find it is more consistent with the CRT's mandate under CRTA

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<sup>2</sup> *The Owners, Strata Plan BCS 435 v. Wong*, 2020 BCSC 1972.

section 2 to resolve Ms. Simpson's claims on their merits, recognizing the ongoing relationship between the parties.

## **ISSUES**

12. The issues in this dispute are:

- a. Does the strata's pet bylaw apply to Ms. Simpson in connection with Remy?
- b. Does the strata have a duty to accommodate Ms. Simpson?
- c. If so, has the strata failed to accommodate Ms. Simpson?
- d. Must Ms. Simpson comply with the strata's pet bylaw?

## **EVIDENCE AND ANALYSIS**

13. As the applicant in this civil proceeding, Ms. Simpson must prove her claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence, but refer only to information I find necessary to explain my decision. Ms. Simpson did not provide final reply submissions in ST-2023-003127, despite having the opportunity to do so. In coming to my decision, I have considered the information submitted by the parties collectively in both disputes.

### ***Background***

14. The strata was created in 2009 under the SPA. The strata repealed and replaced its bylaws in March 2019. It amended bylaw 5.5(c), part of its pet bylaw, in May 2023. However, since this dispute relates to events that happened before the amendment was filed with the Land Title Office, I find the March 2019 bylaws apply. Other amendments filed since then are not relevant to this dispute.

15. The applicable parts of the strata's pet bylaw read:

5.5 A pet owner must:

(a) ensure that any Permitted Pet is kept on a leash (a physical leash not exceeding 6 feet in length) or contained inside an appropriate, secure carrier on common property or land that is a common asset, including but not limited to, elevators, hallways, parking garage, stairwells, and exterior grounds. A Permitted Pet found loose on common property or land that is a common asset will be delivered to the municipal pound at the cost of the strata lot owner;

5.12 If the strata council reasonably determines that any resident dog meets the definition of an “Aggressive Dog” (...) the strata council may require that dog to be:

- (a) muzzled and under control of an adult person competent to control the dog any time the dog is on any common property or land (...), or:
- (b) removed permanently from the strata lot, common property or common asset or all of them.

For the purpose of this bylaw, an “aggressive dog” meets one or more of the following conditions:

- (...) has, without provocation, bitten or caused non-serious injury to a person or another animal or has demonstrated a propensity, tendency or disposition to do so (...)

16. The strata submitted four bylaw infraction notices it issued Ms. Simpson in 2022 and early 2023 about complaints it received concerning Remy. The complaints alleged Ms. Simpson did not hold Remy’s leash while in the common property parkade, Remy was not under control when exiting the elevator and lunged at people and another dog, and Remy bit another owner. In the first three notices, the strata requested Ms. Simpson resolve the matter. In two of them, it specified she do this by ensuring her dog is trained and under leashed control while on common property. In the fourth notice, the strata notified Ms. Simpson Remy was an “aggressive dog” as defined in bylaw 5.12. It required that Remy always be muzzled while on common property. The strata did not fine Ms. Simpson or take any other action against her.

17. Ms. Simpson says Remy is a service dog, so the pet bylaw does not apply. She also says the strata discriminated against her based on disability. Specifically, she says the strata failed to accommodate her by not exempting Remy from the leash and muzzle requirements of bylaw 5.

### ***Applicability of the strata's pet bylaw under the SPA***

18. SPA section 123(3)(a) says bylaws prohibiting pets or restricting their access to strata lots or common property do not apply to guide or service dogs. SPA section 123(1) says "guide dog" and "service dog" have the same meaning as in the *Guide Dog and Service Dog Act*. That legislation defines a service dog as a certified dog trained to perform specific tasks to help a person with a disability.
19. The evidence shows, and it is undisputed, Remy is not a certified service dog as defined in the *Guide Dog and Service Dog Act*. So, I find Ms. Simpson is not exempt from compliance with the relevant bylaws on the basis that Remy is a "service dog" under the SPA. Even if Remy were a "service dog", the strata's pet bylaw would largely apply. This is because the SPA section 123 exemption only applies to the extent the bylaws prohibit or restrict the service dog's **access** to strata lots or common property, not to bylaws that relate to the service dog in other ways (my bold emphasis).
20. However, the Code protects people with disabilities who rely on service dogs even if the dog is not certified under the *Guide Dog and Service Dog Act*. I turn to this now.

### ***Duty to accommodate***

21. Under section 8 of the Code, strata corporations have a duty to accommodate people with physical and mental disabilities, unless doing so would create undue hardship.<sup>3</sup>
22. To establish a claim based on disability under the Code, Ms. Simpson must first prove she has a disability, which then triggers a duty to accommodate. Ms. Simpson must also demonstrate the pet bylaw has an adverse impact on her. And, she must show a connection between the adverse impact and her disability. After that, the burden

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<sup>3</sup> See *Konieczna v. The Owners Strata Plan NW2489*, 2003 BCHRT 38 and *Mitchell v. The Owners, Strata Plan VR284*, 2023 BCCRT 1008.

shifts to the strata to establish a *bona fide* (genuine) and reasonable justification for enforcing the pet bylaw against Ms. Simpson.

23. The Code does not define “disability”. However, Ms. Simpson submitted evidence she has been diagnosed with irreversible hearing loss in both ears, for which she wears hearing aids. In addition, she was diagnosed with Type 1 diabetes, fibromyalgia, complex chronic fatigue, complex regional pain syndrome, and central pain sensitization around July 2022, which have functional impacts on many of her physical, cognitive, and psychosocial abilities. Ms. Simpson also provided a letter from her clinical therapist explaining Ms. Simpson’s clinical assessment of anxiety and the many related symptoms she regularly experiences. While the letter does not include the therapist’s qualifications, the strata does not challenge it, and the strata acknowledges the letter “provides some insight into why Ms. Simpson may benefit from a service dog.” I exercise my discretion to waive expert evidence requirements under the CRT’s rules for Ms. Simpson’s clinical therapist. I find the letter is expert evidence confirming Ms. Simpson experiences moderate to severe anxiety that disrupts “normal functioning (...) in her personal development, work place and social relationships”. Based on these diagnoses and the therapist’s assessment, I find Ms. Simpson has proven she has multiple disabilities for the purposes of section 8 of the Code, and the strata has a duty to accommodate her.
24. However, I find Ms. Simpson has not proven the strata’s pet bylaw in relation to leashing and muzzling Remy has an adverse impact on her, as explained immediately below.

***Alleged failure to accommodate and compliance with the pet bylaw***

25. Ms. Simpson says Remy is essentially “vital medical equipment”, and bylaw 5.5(a) interferes with Remy’s ability to perform “essential tasks”, which puts her health and safety at “considerable risk”. In particular, she says Remy is trained in responding to panic attacks, flashbacks, and other “acute symptoms”, and can detect changes in her blood sugar levels, which acts as an early warning for hypoglycemic and hyperglycemic events. Yet, Ms. Simpson submitted no evidence Remy is trained in or capable of doing any of the tasks she describes, or any particular tasks in connection



with her disabilities. She provided an invoice for “Service Dog Foundations Puppy Program”, but there is no evidence Remy was enrolled in this class, what training he received, or whether he completed the program. As noted earlier, it is undisputed Remy is not a certified service dog. To the extent Ms. Simpson says Remy provides physical support to reduce her risk of falling, it is unclear how the strata’s leash requirement interferes with that.

26. Ms. Simpson also says she uses a mobility harness with a guide attachment for Remy, which makes a traditional leash unnecessary. Ms. Simpson says the harness allows Remy autonomy to perform tasks like guiding her through spaces, retrieving medication, or getting help. The strata has not said a mobility harness with a guide attachment of less than six feet would infringe bylaw 5.5(a), and I find it is not obvious it would. So, I find Ms. Simpson’s preferred method of leashing Remy is not clearly prohibited in any event.
27. As for having to let go of Remy from time to time on common property when carrying items, for example, Ms. Simpson has not explained why she would not be able to clip Remy to a waist harness or other hands-free attachment. I acknowledge that retrieving medication or getting help would involve Remy being untethered from Ms. Simpson, although I note Ms. Simpson has not explained why medicine retrieval would take place on common property. But, since the strata’s duty to accommodate is ongoing, if there were an emergency requiring Ms. Simpson to drop Remy’s leash and the strata enforced the bylaw against Ms. Simpson in that situation, that might be a Code violation. However, as noted above, the evidence before me does not establish Remy is capable of retrieving medication or getting help, or that such an emergency has ever arisen.
28. Ms. Simpson also says the strata’s requirement that Remy be muzzled while on common property due to his designation as an “aggressive dog” under bylaw 5.12 significantly impairs his ability to perform the essential tasks of object retrieval, tactile stimulation, and navigation. Again, I find there is no evidence Remy is trained in or capable of performing these tasks. Without this, it follows Ms. Simpson has not

proven requiring Remy to wear a muzzle on common property has an adverse impact on her.

29. Even if Ms. Simpson had proven muzzling Remy led to an adverse impact connected to her disabilities, I would have found the strata had established a *bona fide* and reasonable justification for enforcing bylaw 5.12(a) against her, for the following reasons.
30. In December 2022, the strata received a complaint Remy had bitten another resident while exiting the elevator. Ms. Simpson denied the allegation, and suggested any “aggressive behaviour” was provoked. The strata submitted security camera footage of the incident I find clearly shows Remy exiting the elevator, approaching a person with their back to him, sniffing them, and then biting them on the buttocks without provocation. The strata relied on the security camera footage in deciding that Remy was an aggressive dog and must be muzzled on common property.
31. Whether the security camera footage is admissible in this proceeding is different to the question of whether the strata breached PIPA, addressed above. As the OIPC found in *Langley Cruiseshipcentres Ltd. (Re)*, even if the footage was obtained contrary to PIPA, the decision concerning admissibility of evidence is for the court (or tribunal) in question.<sup>4</sup> Several tribunal cases have found a “contextual and reasonable balancing of interests” is required to decide whether to admit evidence that has been obtained in contravention of PIPA.<sup>5</sup> While those decisions are not binding on me, I find them persuasive. Here, I find the importance of the camera security footage in determining whether Remy bit someone, and so poses a safety risk, outweighs Ms. Simpson’s privacy interests. So, I find the footage is admissible evidence.
32. The resident who was bitten also submitted photographic evidence of bleeding, punctured skin. Ms. Simpson suggests this may have been “pre-existing”, but I find the weight of the evidence does not support such a conclusion. The strata determined the injury was non-serious, but found Remy was an “aggressive dog” under the

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<sup>4</sup> See *Langley Cruiseshipcentres Ltd. (Re)*, 2006 CanLII 92910 (BC IPC).

<sup>5</sup> See, for example, *Pope 7 Talbot Ltd. and P.P.W.C, Loc. 8 (re)*, 2003 CanLII 89633 (BC LA), and *Zellstoff Celgar Limited v Public and Private Workers of Canada, Local 1*, 2017 CanLII 55591 (BC LA).

definition in bylaw 5.12. Taking account of the level of injury and the fact it was the first reported instance of Remy biting or injuring a person, and recognizing Ms. Simpson is a person with disabilities who keeps Remy “for personal support purposes”, the strata decided not to require that Ms. Simpson remove Remy from the premises altogether. Instead, it required that Remy be muzzled on common property. I find taking this step to ensure other residents are not at risk of being injured by a dog with a known propensity for biting without provocation is a genuine and reasonable justification for enforcing the muzzling bylaw against Ms. Simpson, despite her disabilities.

33. Overall, I find the strata has not, to date, failed to accommodate Ms. Simpson under the Code further to its pet bylaw.
34. Ms. Simpson claims \$5,000 for harassment and interference with Remy on common property. I infer this is a claim for damages for discrimination, since there is no recognized tort of harassment in BC and Ms. Simpson’s arguments focus largely on allegations of discrimination under the Code. As Ms. Simpson has not proven discrimination, I dismiss her claim for monetary compensation. I also dismiss her claims for orders that the strata stop enforcing its bylaws against her in connection with Remy, and that it stop interfering with Remy, as she has proven no basis for either of them.
35. I turn to the strata’s counterclaim. It asks that I make orders enforcing its decision to require Ms. Simpson to muzzle Remy and control him with a leash no longer than six feet while on common property. The strata is authorized under SPA section 26 to enforce its bylaws and rules. I have already found Ms. Simpson is not exempt from compliance with the relevant bylaws on the basis that Remy is a service dog under the SPA. However, given the strata’s ongoing duty to accommodate Ms. Simpson, I decline to make these requested orders. I find it is possible that future enforcement of the pet bylaw could contravene the Code, if, for example, Ms. Simpson were to prove Remy performs essential tasks connected with her disability, and, with respect to the muzzling, he no longer poses a legitimate biting threat.

36. I decline to order the strata's other requested remedies, including that the strata does not have to accommodate Ms. Simpson by exempting her and Rexy from bylaw 5 and that SPA section 123 does not apply to Rexy. First, the strata's duty to accommodate Ms. Simpson is ongoing, as noted above. Next, and in any case, both are requests for declaratory relief. The CRT does not generally have authority to make a declaratory order unless it is incidental to a claim for relief in which the CRT has jurisdiction.<sup>6</sup> Since, I have not ordered the strata's other claimed remedy, there is no basis on which to order the declaratory relief sought.

37. I dismiss the strata's counterclaim.

### **CRT FEES, EXPENSES, AND INTEREST**

38. 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. Simpson was unsuccessful in ST-2023-003127, but did not pay CRT fees. I dismiss her claim for dispute-related expenses.

39. Although I declined to order the strata's requested remedies in ST-2023-008745, I find it was more successful than Ms. Simpson overall, so I order Ms. Simpson to reimburse the strata half its CRT fees, which is \$62.50. The strata also requests \$15,000 in legal fees as a dispute-related expense. While the strata did not specify this amount in the Dispute Notice, I find it put Ms. Simpson on notice it would seek expenses or charges permitted under the CRTA or CRT rules.

40. Ms. Simpson raises various arguments about why the strata is not entitled to fees or dispute-related expenses, including that a) the strata is motivated by discriminatory attitudes and lacks evidence to support its claims, b) the financial burden of an award of fees and expenses would violate her human rights and exacerbate an already hostile environment, and c) she made attempts to resolve the dispute through open dialogue, legal consultation, and third-party mediation. She also raises public policy

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<sup>6</sup> See *Fisher v. The Owners, Strata Plan VR 1420*, 2019 BCCRT 1379.

arguments that such an award would further marginalize individuals with disabilities, and create a dangerous precedent.

41. As discussed below, I find the strata was not motivated by discriminatory attitudes, and submitted compelling evidence in this dispute. Further, there is no evidence an award of fees and expenses would violate Ms. Simpson's human rights or create any additional hostility, or that she attempted to resolve the dispute as described. The strata's evidence shows Ms. Simpson sent offensive, obscenity-laced, and racist communications to the strata manager about the strata's enforcement of the pet bylaw. As for the public policy arguments, I disagree an award of fees and dispute-related expenses in this dispute would engage these concerns, given the CRT's rules about when legal fees are payable in a strata dispute.
42. In her reply submissions, Ms. Simpson says in any event, she is unable to pay the strata's legal fees even if I order her to do so. I note an inability pay does not relieve a person of their obligation to pay if they are ordered to do so.
43. CRT rule 9.5(3), says the CRT will not order a party to pay another party's legal fees in a strata dispute unless there are extraordinary circumstances that make it appropriate to do so. Under rule 9.5(4), the CRT may consider a) the complexity of the dispute, b) the degree of involvement by the representative, c) whether a party's conduct has caused unnecessary delay or expense, and d) any other factors the CRT considers appropriate.
44. Here, the strata says Ms. Simpson's conduct in this dispute has been "improper, high handed and contrary to the spirit of the SPA and the CRT's mandate". It says this has led to extraordinary circumstances warranting an order that she pay the strata's legal fees.
45. In other CRT decisions, tribunal members have considered a party's conduct during the CRT proceeding when deciding whether to order reimbursement of legal fees. In doing so, they applied the law of special costs under the BC Supreme Court rules.<sup>7</sup>

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<sup>7</sup> See *Kornylo v. The Owners, Strata Plan VR 2628*, 2019 BCRT 1387, and *Parfitt et al v. The Owners, Strata Plan VR 416 et al* 2019 BCCRT 330.

The threshold for awarding special costs is reprehensible conduct during litigation that deserves rebuke, such as improper motive, abuse of the court (or tribunal) process, and misleading the court (or tribunal).<sup>8</sup> The BC Court of Appeal has found there is no sound judicial policy argument for considering pre-litigation conduct in an award of special costs.<sup>9</sup>

46. During this proceeding, Ms. Simpson repeatedly denied Remy ever bit anyone. This was proven blatantly untrue with security camera footage of Remy biting a strata resident. Even faced with irrefutable evidence to the contrary, Ms. Simpson refused to resile from what I find is an obviously untenable position.
47. In addition, Ms. Simpson responded to the strata's counterclaim by accusing the strata of transphobia. This type of argument seeks to discredit a party by making unsubstantiated personal attacks on their character, rather than addressing the facts set out by that party. The courts have found that such personal attacks on a party's character may warrant an award of special costs.<sup>10</sup>
48. The strata acknowledges that individual residents who complained about Remy misgendered Ms. Simpson. I recognize that misgendering someone is invalidating, and can cause emotional harm and safety risks. Here, there is no evidence any strata council members misgendered Ms. Simpson or were transphobic. I find there is no basis to conclude the strata's decisions not to exempt Ms. Simpson from compliance with the leashing and muzzling bylaws were made for any reason other than Remy's behaviour. In these circumstances, I find Ms. Simpson's unsupported allegation of transphobia is an improperly motivated attempt to taint the CRT's view of the strata and its actions.
49. I note the parties both refer to an email Ms. Simpson says the strata manager sent her. The email includes abusive and discriminatory language, name-calling, and uses Ms. Simpson's deadname (her non-chosen name). Ms. Simpson says the email is

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<sup>8</sup> See *Garcia v. Crestbrook Forest Industries Ltd.*, 1994 CanLII 2570 (BC CA), and *Westsea Construction Ltd. v. 0759553 B.C. Ltd.*, 2013 BCSC 1352.

<sup>9</sup> See *Smithies Holdings Inc. v. RCB Holdings Ltd.*, 2017 BCCA 177.

<sup>10</sup> See, for example, *University of British Columbia v. Kelus*, 2014 BCCA 42, *Gibson v. F.K. Development Ltd.*, 2018 BCSC 437, and *Parranto v. Brummel*, 2014 BCSC 815.

evidence of the “backdrop of transphobia” against which the strata made its decisions. The strata manager denies sending the email, and the strata says an internal investigation revealed it was sent from a “spoofing website” (a fake website created to imitate a trusted site). The strata points to the email as evidence of what it says is Ms. Simpson’s willingness to act dishonestly. Since the email was sent before Ms. Simpson filed her application for dispute resolution, I do not need to decide what happened, and I draw no conclusions from the email in coming to my decision about awarding dispute-related expenses.

50. In the circumstances described further above, I find first, that Ms. Simpson attempted to mislead the CRT and was careless with the truth about the biting incident. Second, she displayed reckless indifference by not recognizing that her claim was manifestly deficient when presented with evidence of the bite. Third, she attempted to distract the CRT by claiming the strata’s counterclaim was motivated by transphobia when there was no evidence of this. I find that as described above, her conduct is deserving of rebuke. I find it also unnecessarily lengthened and complicated this proceeding. So, I find under the CRT’s rules this is an extraordinary circumstance where it is appropriate to order Ms. Simpson to pay part of the strata’s claimed legal fees.
51. Although it claims \$15,000, the strata only submitted evidence of \$6,411.14 in legal fees, so I find it is limited to this amount at the outset. Ms. Simpson says the strata’s legal fees are unwarranted and exaggerated. The strata submitted a letter from its lawyer summarizing the legal fees in this dispute, on the basis that the invoices themselves contain privileged information. The strata relies on another CRT dispute, *Parpia*, in support of this approach.<sup>11</sup> I find the reasoning in *Parpia* persuasive, and I accept the letter as proof of the strata’s \$6,411.14 legal fees. I also find the legal fees on their face are not unreasonable.
52. In *Gichuru v. Smith*, the BC Court of Appeal set out a detailed analysis of when and how special costs should be assessed.<sup>12</sup> However, in *Parfitt*, the tribunal member found in the circumstances of a CRT dispute, the strict method of assessment

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<sup>11</sup> *Parpia v. The Owners, Strata Plan LMS 94*, 2021 BCCRT 575.

<sup>12</sup> *Gichuru v. Smith*, 2014 BCCA 414.

contemplated in *Gichuru* is not appropriate. She found this was because the CRT's mandate is to resolve disputes accessibly, quickly, economically, informally, and flexibly, which necessarily involves an element of proportionality. Also, she said the CRT is not governed by the *Supreme Court Rules*, and unlike the courts, has no process for the routine examination of legal costs. I agree with the reasoning in *Parfitt*, and I apply it here.

53. Based on the circumstances here, and on a judgment basis, I find it is appropriate to order Ms. Simpson to pay half the strata's proven legal fees, which equals \$3,205.57.
54. The strata must comply with section 189.4 of the SPA, which includes not charging any other dispute-related expenses against Ms. Simpson.

## ORDERS

55. Within 30 days of the date of this decision, I order that Ms. Simpson pay the strata \$3,268.07, broken down as follows:
  - a. \$62.50 for half the strata's paid CRT fees, and
  - b. \$3,205.57 for dispute-related expenses, for half the strata's legal fees.
56. I dismiss the rest of the parties' claims.
57. The strata is entitled to post-judgment interest under the *Court Order Interest Act*.
58. This is a validated decision and order. Under section 57 of the CRTA, a validated copy of the CRT's order can be enforced through the British Columbia Supreme Court. Under section 58 of the CRTA, 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.

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Megan Stewart, Tribunal Member