



# Civil Resolution Tribunal

Date Issued: June 26, 2024

File: ST-2023-003152

Type: Strata

Civil Resolution Tribunal

Indexed as: *Morrison v. The Owners, Strata Plan NW 69*, 2024 BCCRT 604

B E T W E E N :

DANA E. A. MORRISON

**APPLICANT**

A N D :

The Owners, Strata Plan NW 69

**RESPONDENT**

---

## REASONS FOR DECISION

---

Tribunal Member:

J. Garth Cambrey, Vice Chair

## INTRODUCTION

1. This strata property dispute is about bylaw investigation and enforcement.
2. The applicant, Dana Morrison, owns a strata lot in the respondent strata corporation, The Owners, Strata Plan NW 69 (strata). Mr. Morrison is self-represented. The strata is represented by a lawyer, Natasha Cooke.

3. Mr. Morrison says, for several years, he has been dealing with an aggressive neighbouring owner who has caused him financial loss and interfered with the use and enjoyment of his strata lot. The neighbouring owner is not a party to this dispute. He says the strata has failed to adequately investigate his complaints and enforce any bylaws. Mr. Morrison seeks an order for \$1,200,000 as compensation for his financial losses, lost use and enjoyment of his strata lot, and damages to personal property. He does not break down the amounts for each part of his claim.
4. The strata denies it had a duty to investigate Mr. Morrison's claims or that it failed to do so. It says Mr. Morrison did not provide any evidence to verify his claims and that the strata cannot investigate alleged complaints or bylaw contraventions that are not brought to its attention.
5. The strata also makes a number of alternative arguments which include that it acted in compliance with its statutory duty, standard practice, and the applicable standard of care. The strata also says that it is not responsible for Mr. Morrison's loss, damage, or expense, which he has not proved. Finally, the strata says Mr. Morrison failed to mitigate his losses, damages, and expenses, and that he is barred under the *Limitation Act* to pursue his claims. The strata says Mr. Morrison's claims should be dismissed.
6. As explained below, I dismiss Mr. Morrison's claims and this dispute.

## **JURISDICTION AND PROCEDURE**

7. 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.

8. 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. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the written evidence and submissions provided.
9. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.

## **ISSUES**

10. The issues in this dispute are:
  - a. Are Mr. Morrison's claims barred under the *Limitation Act*?
  - b. If not, has the strata sufficiently investigated Mr. Morrison's bylaw complaints?
  - c. What is an appropriate remedy, if any?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

11. In a civil proceeding such as this, Mr. Morrison must prove his claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to information I find relevant to explain my decision.
12. The strata was created in January 1972 and exists under the *Strata Property Act* (SPA). It is comprised of 87 residential strata lots in a single 3-storey building. Mr. Morrison's strata lot is on the third floor of the building.
13. The strata filed a complete new set of bylaws with the Land Title Office on October 31, 2022. The bylaw amendment confirms the Standard Bylaws under the SPA do not apply. I consider relevant bylaws below, as necessary.
14. In November 2019, Mr. Morrison filed a Notice of Claim in the Provincial Court of BC (Small Claims Court) against the same neighbour that Mr. Morrison alleges the strata

failed to investigate or enforce bylaws against in this dispute. The strata was not a party to those proceedings. In the Notice of Claim, Mr. Morrison claimed his neighbour had interfered with the quiet enjoyment of his strata lot and caused damages to his personal property. The small claims court proceeding, including the neighbour's counterclaim, was settled on July 29, 2020. The settlement conference record in evidence shows Mr. Morrison's neighbour agreed to pay him \$500 in full and final settlement of the issues.

***Are Mr. Morrison's claims barred under the Limitation Act?***

15. Mr. Morrison's submissions and evidence relate to the strata's failure to investigate or enforce its bylaws about Mr. Morrison's claims of noise, bullying, harassment, and vandalism alleged by his neighbour. The strata says that the claims in this dispute relate to the claims that were before the small claims court. It also says that because letters Mr. Morrison provided to the strata all predate September 30, 2018, his claims are out of time under *Limitation Act*.
16. CRTA section 13 confirms the *Limitation Act* applies to CRT claims. The limitation period stops running when a person applies to the CRT for dispute resolution . The basic period to file a claim is 2 years after the claim is "discovered". At the end of the 2-year limitation period, the right to bring a claim disappears. A claim is "discovered" on the first day the person (here Mr. Morrison) knew, or reasonably ought to have known, that the loss or damage occurred, that it was caused or contributed to by an act or omission of the person against whom the claim may be made (here the strata), and that a court or tribunal proceeding would be an appropriate way to remedy the damage.
17. Mr. Morrison applied for dispute resolution services with the CRT on March 21, 2023. Therefore, Mr. Morrison must have discovered his claims after March 21, 2021.
18. The strata raised the matter of suspended limitation periods during the COVID-19 pandemic. The *COVID-19 Related Measures Act* (CRMA) gave administrative tribunals like the CRT discretion to waive, suspend, or extend any mandatory time limit, including limitation periods. However, that authority expired 90 days after the

COVID-19 state of emergency ended in British Columbia. The state of emergency ended on June 30, 2021, so I find that the CRT's power to waive, suspend, or extend a limitation period expired at the end of September 2021 and does not apply here. See *Khairi v. Browne*, 2022 BCCRT 813 at paragraphs 17 and 18.

19. Based on Mr. Morrison's submissions and evidence, I agree with the strata that his claims primarily relate to allegations of noise, bullying, harassment, and vandalism alleged by his neighbour that occurred between 2009 and 2018. These allegations are summarised in an undated written submission from Mr. Morrison that he provided to the strata council entitled "Bayside Living 2009 – 2018". Given the title, I infer the events described in the submission occurred between 2009 and 2018. They allege the neighbour:

- a. Used his storage locker in 2009,
- b. Causing noise in 2013, 2014, 2015, and 2018 by, among other things:
  - i. Banging on his bedroom walls, and
  - ii. Opening a fire door causing it to hit the wall next to his strata lot.
- c. Bullying, harassment, and vandalism to:
  - i. His storage locker in 2010,
  - ii. His mailbox lock in 2016,
  - iii. His unit door by scratching it,
  - iv. His vehicle and tires several times up to 2018, and
  - v. The carpet outside his strata lot entrance door in 2015, 2017, and 2018.

20. Although Mr. Morrison's written submission states there are letters attached, that is not the case. Even so, given the alleged events all occurred before March 21, 2021, I find Mr. Morrison is out of time under the *Limitation Act* and I dismiss his claims to

the extent they are related to allegations prior to 2018.

***Has the strata sufficiently investigated Mr. Morrison's bylaw complaints?***

21. Mr. Morrison says that some of his neighbour's actions continue, such as noise, bullying, and harassment. So, I have considered whether the strata failed to reasonably investigate or enforce alleged bylaw infractions after 2018. I find it has not.
22. Bylaw 8.1 says an owner must not use a strata lot, common property, or common assets in a way that causes a nuisance or hazard to another person, causes unreasonable noise, or unreasonably interferes with the rights of other persons to use and enjoy another strata lot.
23. SPA section 26 requires the strata council to exercise the powers and perform the duties of the strata, which include enforcing bylaws. I have previously found that a strata corporation's duty to enforce its bylaws includes a duty to investigate alleged bylaw infractions. See for example, *Cox v. The Owners, Strata Plan BCS 4261*, 2022 BCCRT 38 and *Abanilla v. The Owners, Strata Plan LMS 739*, 2021 BCCRT 1292.
24. The SPA does not set out any procedures for assessing bylaw complaints. In *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32 at paragraph 237, the Supreme Court found a strata council must act reasonably when enforcing bylaws.
25. In *Chorney v. Strata Plan VIS 770*, 2016 BCSC 148, the Supreme Court stated that the SPA allows strata corporations to deal with matters of complaints for bylaw violations as it sees fit, as long as it complies with the principles of procedural fairness and its actions are not significantly unfair to any person who appears before it (paragraph 52).
26. Noise complaints are a form of nuisance. In *The Owners, Strata Plan LMS 1162 v. Triple P Enterprises Ltd.*, 2018 BCSC 1502, the court found that nuisance is an unreasonable interference with an owner's use and enjoyment of their property. Whether an interference is unreasonable depends on several factors, such as its

nature, severity, duration, and frequency. The interference must also be substantial such that it is intolerable to an ordinary person. See *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64.

27. Mr. Morrison has not provided any objective evidence, such as date logs or noise recordings, so the frequency, duration, and severity of his noise complaints cannot be determined. There is also no objective evidence about bullying or harassment.
28. There are several years of minutes in evidence. I reviewed those related to 2021, 2022, and 2023 until August 1, 2023. There is no evidence of any complaints made to the strata in 2021. In 2022, there were 3 noise complaints, but I cannot identify the parties to the noise complaints as the minutes do not identify the names, unit numbers, and strata lot numbers. For 2023, there were 2 noise complaints and 1 complaint about a camera installation. The April 5, 2023 council minutes say there was correspondence from Mr. Morrison's strata lot and that the strata council would meet with him. No further details were provided, but Mr. Morrison admits strata council members met with him and says he was unhappy the strata decided not to act on his concerns, details of which were not provided. The May 10, 2023 council minutes say a complaint was received from Mr. Morrison's neighbour about an in-suite camera he had installed, but that issue does not form part of Mr. Morrison's claim.
29. In any event, aside from Mr. Morrison's own assertions that his neighbour continues to make noise and bully and harass him, there is no direct evidence they do, nor is there any evidence Mr. Morrison wrote to the strata about any specific bylaw infractions for which the strata failed to respond. It is not enough for Mr. Morrison to speculate that his neighbour is the cause of his concerns and request the strata's assistance with vague or unsubstantiated allegations. Based on the evidence before me, I find Mr. Morrison has not proven that he made any complaints to the strata, either at all or with sufficient supporting evidence since March 21, 2021.

30. Based on the overall evidence and submissions, I find the strata acted reasonably in the circumstances. I do not find the strata was obligated to investigate Mr. Morrison's unsubstantiated claims.

31. For all of these reasons, I dismiss Mr. Morrison's claims and this dispute.

## **CRT FEES AND EXPENSES**

32. 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. Mr. Morrison was not successful, and the strata did not pay CRT fees. Neither party claimed dispute-related expenses. Therefore, I make no order about CRT fees or dispute-related expenses.

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

## **DECISION**

34. I dismiss Mr. Morrison's claims and this dispute.

---

J. Garth Cambrey, Vice Chair