



Civil Resolution Tribunal

Date Issued: October 7, 2024

File: ST-2022-009282

Type: Strata

Civil Resolution Tribunal

Indexed as: *Huang v. The Owners, Strata Plan BCS4348*, 2024 BCCRT 993

BETWEEN:

CIYAN HUANG

APPLICANT

AND:

The Owners, Strata Plan BCS4348

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Maria Montgomery

INTRODUCTION

1. This dispute is about move-in fees in a strata corporation. The applicant, Ciyang Huang, is an owner of a strata lot in the respondent strata corporation, The Owners, Strata Plan BCS4348. She says the strata inappropriately charged her a move-in fee of \$300 and asks that this charge be removed from her strata lot account.

2. The strata disagrees with Ms. Huang's claims and says that it acted according to the bylaws.
3. Ms. Huang is represented by YW, a family member. A strata council member represents the strata.

JURISDICTION AND PROCEDURE

4. 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 continue after the CRT process has ended.
5. 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. 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.
6. 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.
7. 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.
8. The strata says that Ms. Huang's son has acted inappropriately towards its building caretaker about the move-in fee and provides an RCMP file number. I find his

alleged conduct is not relevant to the issue of move-in fees and I have not considered it in my decision.

ISSUE

9. The issue in this dispute is if Ms. Huang must pay a move-in fee.

BACKGROUND

10. In a civil claim such as this, Ms. Huang as the applicant must prove her claims on a balance of probabilities. This means more likely than not. While I have read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.
11. Ms. Huang purchased a strata lot when the strata was created in 2012. The strata filed a set of bylaws at the Land Title Office which replaced the Standard Bylaws under the *Strata Property Act* (SPA). The strata filed 10 sets of bylaw amendments after that, which I discuss as relevant below.

THE PARTIES' POSITIONS

12. Ms. Huang says that she lived in the strata lot with her son for several years before renting it out. She says that the strata lot was empty on September 1, 2021, when her son dropped off items for storage. She says that on September 7, 2021, the strata building caretaker inappropriately entered the strata lot without notice. Later, the strata notified Ms. Huang that it charged her strata account a \$300 move-in fee.
13. Ms. Huang argues that the move-in fee should not apply because the strata lot was unoccupied and unfurnished in September 2021 and her son moved a few items into the strata lot for storage. She says that dropping off a few household items should not incur a move-in fee as it was not necessary for the elevator be locked or have protective coverings. She also says that the move-in fee is invalid because she is exempt under the bylaw as an owner who purchased from the developer. However, she says she would have booked the elevator and paid the move-in fee

without issue if she needed to move a truck load of household items. She asks that this charge be removed from her strata account.

14. The strata says the move-in fee should apply. It says that a tenant moved in on September 1, 2021, and did so between 9:39pm and 10:17pm, outside the allowed moving hours of 8:00am to 4:00pm. The strata provides photos from its hallway surveillance camera. It also provides a Form K from a tenant who rented the strata lot beginning on September 1, 2020.

EVIDENCE AND ANALYSIS

15. I will now set out the relevant law. Section 6.9 of the *Strata Property Regulation* says a strata corporation may impose user fees for the use of common property or common assets if they are reasonable and set out in a bylaw or rule.
16. The strata amended its bylaws to add bylaw 38 in October 2016. Bylaw 38, titled “Move In and Out”, includes the following provisions:
 - Owners must contact the building caretaker at least one week in advance to arrange for a move.
 - To prepare for a move, the caretaker will lock off the elevator and hang protective coverings.
 - A \$300 move-in fee must be paid but does not apply to first-time buyers who purchased from the developer.
 - A \$300 security deposit must be paid for move-ins and move-outs, with the deposit refunded once the front lobby and passageways are assessed to be free of damage.
 - Owners are to pay due care and attention to the elevator, walls, carpets and doors when moving furniture.
 - Moves must be made through the loading bay, rather than the lobby.

17. I find that Ms. Huang is not required to pay the fee for the items moved into her strata lot. I say this because I am not satisfied that a move occurred on September 1, 2021.
18. While bylaw 38 does not define a “move”, I find it appropriate to rely on the plain and ordinary meaning of a “move” in the context of the bylaw, similar to the non-binding CRT decision *The Owners, Strata Plan VR245 v. Jiwa*.¹ I find the bylaws reference using a loading bay, locking off an elevator and moving furniture. This implies that a “move” involves moving a significant amount of furniture or a significant number of large household items into a strata lot. I find this is consistent with the plain and ordinary meaning of a “move”.
19. The strata does not dispute Ms. Huang’s claim that the strata lot was unfurnished in September 2021. The strata provides four photographs from its hallway camera. The photos reveal that two people carried several items to the strata lot, including a mattress, cushions, and suitcases. However, there were no more than a dozen items. By the strata’s own submission, moving the items took 30 minutes. Given the small volume of items and the lack of furniture, I find that the move-in fee does not apply. I order the strata to reverse the \$300 charge for the move-in fee.
20. Given my finding, there is no need for me to consider the exemption to the move-in fee in bylaw 38 for first time buyers from the developer.

CRT FEES AND EXPENSES

21. 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 therefore order the strata to reimburse Ms. Huang for CRT fees of \$225. Neither party claimed dispute related expenses.

¹ 2021 BCCRT 1171.

22. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mrs. Huang.

ORDERS

23. I order the strata to immediately reverse the \$300 move-in fee assessed against Ms. Huang's strata lot account.

24. Within 30 days of this decision, the strata must reimburse Ms. Huang \$225 for CRT fees.

25. 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.

Maria Montgomery, Tribunal Member