



Civil Resolution Tribunal

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Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan LMS628 v. Adjei*, 2025 BCCRT 87

B E T W E E N :

The Owners, Strata Plan LMS628

APPLICANT

A N D :

SETH MANTEY ADJEI and GEORGINA MANTEY ADJEI

RESPONDENTS

REASONS FOR DECISION

Tribunal Member:

Mark Henderson

INTRODUCTION

1. This dispute is about damage to common property from a motor vehicle accident.
2. The applicant strata corporation, The Owners, Strata Plan LMS628, seeks \$11,070.98 from the respondents, Seth Mantey Adjei and Georgina Mantey Adjei, for damage to a carport column.

3. The strata says that a resident of the respondent's strata lot hit the column in the carport causing damage. The strata hired a property service company and a structural engineer to repair the column after the accident.
4. The respondents do not deny the incident but say that ICBC is required to pay for the repair costs. So, they say that the strata should direct any concerns to ICBC.
5. A strata council member represents the strata. The respondents represent themselves.

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. 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.
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. I find that an oral hearing is not necessary.
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. Are the respondents required to reimburse the strata for the repair costs?
- b. Did the strata act significantly unfairly by not claiming through ICBC for the column repairs?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the strata must prove its 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 necessary to explain my decision.

Background

12. The strata repealed and replaced the Standard Bylaws with a complete set of bylaws on November 22, 2001. These bylaws have been periodically amended since 2001. In this dispute the strata relies on bylaw 3 adopted in 2001 and bylaw 38 adopted on November 21, 2019. I discuss these bylaws in more detail below.

13. The respondents are registered owners of strata lot 20 (SL20). The main facts are undisputed. On July 22, 2021, a resident of SL20 hit the carport column immediately adjacent to SL20, damaging the column.

14. On August 9, 2021, the strata sent a letter to the respondents, notifying them of a potential bylaw violation regarding the column damage. The letter advised the respondents to contact ICBC to start an insurance claim. The letter also informed the respondents of their opportunity to dispute the complaint in writing or by requesting a hearing at the next council meeting. There is no evidence the respondents disputed the complaint or requested a hearing.

15. The strata hired Rockport Property Service Ltd. and MGH Consulting Inc. to repair the structural column. MGH Consulting and Rockport completed the repairs in November 2021.
16. On February 18, 2022, the strata notified the respondents that it was charging them \$11,070.98 for the repair costs and provided invoices from Rockport and MGH Consulting for the work done.

Are the respondents required to reimburse the strata for the repair costs?

17. The strata relies on its bylaw 3(4), bylaw 38 and *Strata Property Act* (SPA) sections 133 and 135 to support its claim for recovery from the respondents.
18. Strata bylaw 3(4) prohibits an owner or occupant from damaging the common property. Bylaw 38 requires an owner to indemnify the strata for damage to common property that the owner, a family member, tenant, or a visitor caused. Bylaw 38(1) limits the amount of this indemnity to the amount not covered by the strata's own insurance.
19. In this dispute, it is not clear who hit the carport. However, the respondents do not dispute the damage. So, I find one of the respondents or a family member, tenant or visitor contravened bylaw 3(4) by damaging the carport column. This makes the respondents liable under bylaw 38 to indemnify the strata for the damage.
20. SPA section 133 authorizes the strata to do work on common property to remedy a bylaw contravention and charge the owners who are responsible for the bylaw contravention. SPA section 135 requires the strata to notify an owner of a bylaw contravention and provide notice of the complaint and give the owner a reasonable opportunity to answer the complaint before imposing a fine or charging owners for bylaw-related repairs.
21. The strata gave the respondents notice of the complaint in the August 9 letter and notified the respondents of their opportunity to dispute the complaint. I find that the strata's letters of August 9, 2021, and February 18, 2022, fulfilled the strata's obligation under SPA section 135 to notify the respondents of the bylaw

contravention. The respondents do not argue that the strata breached SPA section 135.

22. The respondents say ICBC told them that the strata needed to start a claim with ICBC for the repair cost. The respondents provided a copy of ICBC's file notes indicating that the respondents contacted ICBC and obtained a claim number. The Loss Details for the respondent's claim number describes damage to the carport but no other claims for injuries or vehicle damage.
23. Seth Mantey Adjei spoke to an ICBC employee on April 8, 2022, to tell ICBC about the invoice he received from the strata. The ICBC file notes show that ICBC told the respondents on April 8, 2022, to tell the strata that it needed to contact ICBC to claim for the damage. Mr. Mantey Adjei contacted ICBC again on July 20, 2022, to get the claim number.
24. ICBC closed the respondents' claim on October 24, 2022. The respondents contacted ICBC again on June 7, 2023, about the strata's repair invoice. ICBC again advised the respondents that it was up to the strata to file a claim with ICBC for damages for the column repair. The respondents contacted ICBC again on June 19, 2023, saying that the strata was threatening to take them to court. ICBC confirmed that there was no Notice of Civil Claim at that time. ICBC repeated its earlier advice to get the strata to call ICBC.
25. The respondents said in their reply submissions they called the strata office and went to the strata office in person to advise the strata what ICBC had told them. The respondents do not say who they spoke to on the phone or at the strata office. The respondents provided no supporting evidence of when these communications with the strata office occurred. Without this evidence, I find that the respondents did not prove they communicated ICBC's advice to the strata that the strata needed to start a separate claim for damages.
26. The strata did not start its CRT claim until July 20, 2023. The respondents contacted ICBC again on September 8, 2023. ICBC advised that since the limitation

period for the claim had passed, it would no longer cover any damage claim the strata brought.

27. Despite ICBC's advice to the respondents, I find there is no principle that requires the strata to pursue its damage claim through ICBC rather than directly with the respondents. I find the strata was within its rights under bylaw 3(4) and bylaw 38 to claim against the respondents for the column repairs.

Did the strata act significantly unfairly by not claiming through ICBC for the column repairs?

28. The respondents say the strata was negligent in failing to pursue a damage claim through ICBC. A negligence claim is not "in respect of the SPA" under CRTA section 121, so I find that such a claim is not within the CRT's strata property jurisdiction.
29. However, under SPA section 123(2), the CRT has jurisdiction to remedy a significantly unfair decision by the strata. SPA section 123(2) mirrors SPA section 164, which applies to the BC Supreme Court.
30. In *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44, the BC Court of Appeal set out the following two-part test to determine if a strata property owner has been treated significantly unfairly:
- a. Examined objectively, does the evidence support the asserted reasonable expectations of the owner?
 - b. Does the evidence establish that the reasonable expectation of the owner was violated by the action that was significantly unfair?
31. In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the Court of Appeal 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.

32. First, I find there is nothing in the SPA or the *Insurance (Vehicle) Act* that requires the strata to start a claim with ICBC for the column repairs. I have also found above that there is no clear evidence the respondents told the strata to start its own ICBC claim. The respondents say the strata management changed during the relevant period and this may have contributed to the strata not starting an ICBC claim. However, I find that a change in strata management is not relevant to whether and how the respondents communicated ICBC's advice to the strata.
33. There may have been miscommunication between ICBC and the respondents about how to ensure coverage for claims advanced against them. However, as the party that suffered the loss, the strata is still entitled to claim for its damages. Here, I find the strata pursued its claim against the respondents within its rights under bylaws 3(4) and 38.
34. For these reasons, I find the strata did not treat the respondents significantly unfairly by exercising its rights under bylaws 3(4) and 38.

CRT FEES, EXPENSES AND INTEREST

35. 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. I see no reason in this case not to follow that general rule. I therefore order the respondents to reimburse the strata for CRT fees of \$225. The strata did not claim dispute-related expenses.
36. The *Court Order Interest Act* (COIA) applies to the CRT. The strata is entitled to prejudgment interest on the debt from February 18, 2022, the date of the notice, to the date of this decision. This equals \$1,200.73.

ORDERS

37. Within 30 days of the date of this order, I order Seth Mantey Adjei and Georgina Mantey Adjei to pay The Owners, Strata Plan LMS628 a total of \$12,496.71, broken down as follows:

- a. \$11,070.98 as reimbursement for the column repairs,
- b. \$1,200.73 in pre-judgment interest under the COIA, and
- c. \$225 in CRT fees.

38. The strata is also entitled to post-judgment interest under the COIA.

39. 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.

Mark Henderson, Tribunal Member