



Civil Resolution Tribunal

Date Issued: January 29, 2025

File: ST-2023-005561

Type: Strata

Civil Resolution Tribunal

Indexed as: *Willis v. The Owners, Strata Plan EPS1910*, 2025 BCCRT 132

BETWEEN:

MICHAEL WILLIS

APPLICANT

AND:

The Owners, Strata Plan EPS1910

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Mark Henderson

INTRODUCTION

1. This dispute is about the respondent strata corporation's response to an incident between the applicant, Michael Willis' dogs, and another dog in the strata. The applicant seeks the "reinstatement of his dogs as residents" and \$200 in reimbursement for a fine that the strata levied against him for not registering his dogs with the strata.

2. The applicant also seeks \$4,776 for damages suffered after the strata posted a public notice in the strata lobby warning other residents of the dogs' aggressive behaviour. The applicant says the notice was harassing, bullying and defamatory.
3. The strata says there is no evidence the dogs were ever registered with the strata, as required under its bylaws. The strata also says it posted the notice for the safety of all owners and the information in the public notice was the minimum required to inform residents of the risk of the dogs' aggressive behaviour.
4. The applicant represents himself. A strata council member represents the strata.
5. For the reasons set out below, I refuse to resolve some of the applicant's claims, and dismiss the rest.

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.
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. In its submissions, the strata objected to the form of the applicant's submissions. The applicant did not upload his evidence as separate documents. Instead, the applicant submitted additional written submissions together with all his documents in one 80-page submission. This was a technical breach of CRT Rule 7.3 regarding character

limits on the applicant's 'arguments. I note that the strata also obtained an extension on the character limit. Despite the applicant's submission format, I note that the strata was able to review the applicant's evidence and provide substantive responses. The strata said the applicant's submission format increased its legal costs, however the strata did not claim reimbursement of legal fees. Since the strata was successful in this dispute, I find there is no prejudice in accepting the applicant's submission.

ISSUES

10. The issues in this dispute are:

- a. Is the applicant entitled to reinstatement of his dogs in the strata?
- b. Is the applicant entitled to revocation of the bylaw fine for not registering his dogs with the strata?
- c. Is the applicant entitled to damages for the removal of the applicant's dogs from the strata?
- d. Is the applicant entitled to damages for the notice posted in the strata?

EVIDENCE AND ANALYSIS

11. In a civil proceeding like this one, the applicant must prove his 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.

12. The strata is a 28 storey residential tower with attached townhouses totaling over 200 units. The applicant was a tenant from 2017 until October 2023, when he and his family moved out of the strata.

13. The strata amended the Standard Bylaws on August 29, 2016. In this dispute the strata relies on bylaw 2(1) and bylaw 36. I discuss these bylaws in more detail below.

14. The strata provided a video recording of the incident between the dogs. On May 2, 2023, the applicant was in the elevator with his two bulldogs. The elevator stopped on the 20th floor. Another resident with a dog was waiting to get on the elevator. The other resident was holding their dog in their hands. The applicant reached over to press a button on the elevator. As he was reaching over to the panel, one of his dogs lunged at the dog that had not entered the elevator. The video shows one of the applicant's dogs pulling the other dog out of its owner's hands. Both of the applicant's dogs exited the elevator, presumably to chase after the other dog. There is a limited view after that point but the camera angle from inside the elevator shows the other resident fell over while trying to protect their dog.
15. I accept the video evidence shows an accurate view of what occurred. I find that the incident between the dogs on May 2, 2023, was a significant incident that required some response from the strata.
16. As a result of this incident, the strata sent a letter to the applicant and the owner on May 10, 2023, saying the dogs had to be removed from the strata by May 24, 2023. This letter also said that the May 2 incident was not the first reported incident of the applicant's dogs acting aggressively. The applicant says he removed the dogs from the strata after the May 2, 2023, incident. The strata says the applicant never notified the strata that he had removed the dogs.
17. The applicant replied to the May 10 letters in a May 11 email and proposed muzzling his dogs as a solution to address any problematic behaviour in public areas. The strata management company replied on May 12, 2023, advising that the matter had been reported to the municipality's animal control and was no longer in the strata's jurisdiction.
18. The strata also sent a separate letter to the applicant and the owner on May 10, 2023, advising that it had no record of the dogs' registration with the strata. The applicant replied to this letter in a May 12 email, asking for the strata to remove the \$200 fine. The strata replied on May 19 that due to the May 2 incident it was not willing to register

the dogs in the strata. The strata did not specifically respond to the applicant's request to remove the fine.

Is the applicant entitled to reinstatement of his dogs in the strata?

19. The applicant sought reinstatement of his dogs as residents in the strata. I take this to mean he wanted an order allowing his dogs to return to live in his unit.
20. A claim is "moot" when there is no longer a live controversy between the parties. The issue is no longer live when it becomes theoretical or academic, which means deciding the issue would have no practical application to the parties. While the courts, and tribunals like the CRT, will generally dismiss a moot claim, the CRT has discretion to decide the dispute if doing so would have a practical impact and potentially help avoid future disputes. See *Binnersley v. BCSPCA*, 2016 BCCA 259.
21. Since the applicant moved out of the strata in October 2023, I find that the dogs' reinstatement is no longer a live issue. I also find there is no practical impact in this dispute that would help avoid future disputes. So, I am not exercising my discretion to decide the dispute. For these reasons, I dismiss this part of the applicant's claim.

Is the applicant entitled to revocation of the bylaw fine for not registering his dogs with the strata?

22. Bylaw 36(3) requires an owner or tenant to register their pet with the strata.
23. The applicant provided a copy of a Pet Registration Form dated June 1, 2017, but did not provide the email that he sent attaching the Pet Registration Form. The applicant included an email chain with an employee of the strata's management company, City Base. Although the Memo line in the email chain includes the Pet Registration Form, the emails provided do not show if the Pet Registration form was attached to the email. So, I find the applicant has not proved he registered the dogs in 2017.
24. *Strata Property Act* (SPA) section 135 authorizes the strata to impose a fine against a person after it has received a complaint about a bylaw contravention, provided the

details of the complaint to the person, and given the person a reasonable opportunity to answer the complaint.

25. Fining a person for a bylaw breach is considered a two-step process. First, the strata must tell the person the details of an alleged bylaw breach. Only after giving the person a reasonable opportunity to respond to that specific complaint can the strata impose a fine. If the strata attempts to do both steps at once by sending a single letter that sets out the details of the complaint and imposes a fine, the process will offend section 135 of the SPA (see for example, *Horvath v. The Owners, Strata Plan 1773* 2022 BCCRT 852). Although the CRT's decision in *Horvath* is not binding on me, I accept its reasoning and apply it here.
26. The strata sent a letter to the applicant and the applicant's landlord on May 10, 2023, providing notice that the strata found no information for the applicant's pet registration. This letter appears to both impose the \$200 bylaw fine but also imply that the strata had not reached a final decision about imposing the bylaw fine. So, I find that the notice did not satisfy the SPA section 135 requirements as the notice appears to give notice of the bylaw contravention and impose the consequences of the bylaw contravention at the same time.
27. The applicant said the strata failed to hold a council hearing, although there is no evidence the applicant ever requested a council hearing on the registration issue. The applicant and the strata manager exchanged emails between May 11 and May 19 discussing the registration issue.
28. Although the dogs were not registered, I find the bylaw notice did not comply with SPA section 135. So, the \$200 bylaw fine was therefore not valid. Despite this breach, I find there is no evidence of whether the strata issued the fine or the applicant paid the fine. So, I dismiss this part of the applicant's claim.

Is the applicant entitled to damages for the strata's decision to remove the dogs?

29. The applicant has not said what specific damages he suffered from the strata's decision to remove the dogs.

30. Bylaw 2(1) prohibits an owner or tenant from causing a nuisance or hazard to another person.
31. Bylaw 36(7)(b) authorizes the strata to require the removal of any pet that constitutes a nuisance to an owner, tenant or occupant of the strata. The strata management company sent a letter on May 10, 2023, setting a deadline of May 24, 2023, to remove the dogs from the strata. The bylaws do not specify a particular notice period before requiring pet removal.
32. The strata sent the bylaw contravention notice to the applicant on May 10, 2023. The strata provided a copy of the bylaw contravention notice. I find the notice advised the applicant that the strata received a complaint about the dogs and provided the details of that complaint. The notice also gave the applicant information about the available methods to answer the complaint. As noted above, the letter appears to both impose the requirement that the applicant remove the dogs by May 24, 2023, and also imply that the strata had not reached a final decision about the dogs' eviction.
33. The strata acknowledged in its submissions that it had no previous experience with evicting a pet. The strata says that it initially thought the municipality would supervise the dogs' eviction. The municipality later informed the strata that the municipality does not evict pets.
34. For the same reasons as above, I find that the notice did not satisfy the SPA section 135 requirements as the notice appears to give notice of the bylaw contravention and impose the consequences of the bylaw contravention at the same time.
35. Despite this finding, I do not agree with the applicant that a breach of SPA section 135 entitles the applicant to damages in these circumstances. Based on the elevator incident on May 2, 2023, I find the strata was acting within its authority to require the dogs' removal. I find there was no specific requirement in the bylaws or the SPA that required the strata to consider other options such as the applicant's suggestion to muzzle the dogs in public areas.

36. For these reasons, I find the applicant is not entitled to damages for the strata's decision to order the dogs' removal.

Is the applicant entitled to damages for the public notice to residents?

37. On May 18, 2023, the strata's property manager asked the building manager to post a notice advising residents and visitors of the aggressive dogs and informing residents that the strata was taking steps toward evicting the dogs. The building manager posted notices in both elevators and in a locked cabinet in the lobby. The strata issued a revised notice on May 23, 2023, following a conversation with the municipal bylaw officer.

38. The strata provided a copy of the notice dated May 18, 2023, and the amended notice dated May 23, 2023. In both notices, the strata identified the dogs' breed but provided no other identifying information about the applicant such as his name or strata unit.

39. The applicant says the notices amount to slander and misrepresentation which harmed his reputation in the strata. This amounts to a defamation claim. Defamation is a common law tort (legal wrong). The two forms of defamation are slander (spoken) and libel (written). CRTA section 121(1) says the CRT's jurisdiction in strata matters extends to claims in respect of the SPA. Since the SPA does not govern defamation claims, I find the CRT's strata jurisdiction does not extend to the applicant's defamation claim. CRTA section 119(a) also excludes libel or slander claims from the CRT's small claims jurisdiction. CRTA section 10(1) says the CRT must refuse to resolve a claim that is not within its jurisdiction. So, to the extent that the applicant's claim is about defamation, I refuse to resolve it.

40. The applicant also says that he suffered bullying and harassment because of the public notices. Since there is no common law tort of harassment, I find that the applicant cannot claim damages for harassment. (See *Tan v British Columbia (Housing Management Commission)*, 2025 BCSC 49.)

41. The applicant also alleges the strata's notices harmed the applicant in several other ways, including:

- a. discriminatory treatment based on pet ownership,
 - b. misleading and unprofessional communication and
 - c. a privacy violation arising from the notice's contents.
42. Pet ownership is not a protected ground under the *Human Rights Code*. So, I find the applicant cannot claim discriminatory treatment based on pet ownership.
43. The strata said it needed to provide some notice to other residents following the incident on May 2, 2023. The strata said it issued the notice out of concern for the safety of other residents and their pets. I agree with the strata that it had an obligation to warn residents that an incident had occurred.
44. The applicant disputed the strata's description of the dogs as "aggressive" because they had allegedly not been designated as "aggressive" by the municipality. The strata said that it was not referring to a specific designation but to the dogs' behaviour in the May 2, 2023, incident. Based on my review of the video footage, I agree with the strata that the dogs' conduct was aggressive regardless of whether the municipality had previously designated them as aggressive. So, I find that the strata's use of the adjective "aggressive" was reasonable in the circumstances and was not misleading.
45. The applicant also disputed the notice on the basis that it said a resident had sustained an attack. The applicant says the notice is inaccurate because the resident's dog sustained an attack, and not the resident. Based on the video of the incident, I find that one of the applicant's dogs grabbed the other resident's dog's tail while it was in the resident's arms. The resident was also knocked over in the commotion that followed. Based on the video evidence, I find the description in the notice that a resident sustained an attack is reasonable in the circumstances and was not misleading.
46. The applicant also said in the Dispute Notice the strata violated its obligations under the *Personal Information Protection Act* (PIPA) in its handling of confidential information. Specifically, the applicant claims the strata improperly disclosed the

applicant's personal information. The PIPA governs how private organizations, including strata corporations, can collect, use, and disclose an individual's personal information. These organizations must give notice and obtain express or implied consent to collect, use and disclose personal information.

47. PIPA section 36(2)(e) says the Office of the Information and Privacy Commissioner (OIPC) has jurisdiction to decide if personal information was collected, used, or disclosed in contravention of the PIPA. Based on these provisions, the CRT has consistently found the CRT does not have jurisdiction to determine if a privacy breach occurred under the PIPA and I accept this reasoning. See for example, *Vanga v. The Owners, Strata Plan LMS1872*, 2024 BCCRT 975, and *Lipton v. The Owners, Strata Plan VIS 4673*, 2024 BCCRT 535. So, I refuse to resolve the applicant's claim for a breach under the PIPA.

CRT FEES AND EXPENSES

48. 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. The applicant was unsuccessful, so I dismiss his claim for CRT fees. Neither party claimed dispute-related expenses.

ORDER

49. I refuse to resolve the applicant's claim for defamation.
50. I refuse to resolve the applicant's claim for the strata's alleged breach of PIPA.
51. I dismiss the applicant's other claims.

Mark Henderson, Tribunal Member