



# Civil Resolution Tribunal

Date Issued: April 8, 2025

File: ST-2023-006541

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan NW 265 v. Khan*, 2025 BCCRT 439

**BETWEEN:**

The Owners, Strata Plan NW 265

**APPLICANT**

**AND:**

MOHAMMED PARWESH KHAN

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell, Vice Chair

## INTRODUCTION

1. This strata property dispute is about pets.
2. Mohammed Parwesh Khan owns a strata lot in the strata corporation, The Owners, Strata Plan NW 265 (strata).

3. The strata is represented in this dispute by a strata council member. The respondent is represented by a friend.
4. The strata says the respondent has 3 cats in his strata lot, contrary to the strata's bylaw prohibiting pets. The strata requests an order that the respondent pay \$6,800 in bylaw fines.
5. The respondent admits to having at least one cat in his strata lot, but says the strata has permitted pets in other strata lots. The respondent says the strata attempt to enforce the pet bylaw against him is discriminatory. He also says he keeps his cat for health reasons.

## **JURISDICTION AND PROCEDURE**

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction (authority) over strata property claims under *Civil Resolution Tribunal Act* (CRTA) section 121. The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly.
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. I have considered the potential benefits of an oral hearing, although neither party requested one. I find I can properly assess and weigh the documentary evidence and submissions before me. So, the CRT's mandate to provide proportional and speedy dispute resolution outweighs any potential benefit of an oral hearing. I find that an oral hearing is not necessary in the interests of justice. I therefore decided to hear this dispute through written submissions.
8. The CRT may accept as evidence information that it considers relevant, necessary, and appropriate, even if the information would not be admissible in court.
9. In its CRT submission, the strata requests an order that the respondent remove all pets from the strata. I find it would be procedurally unfair to consider this late-requested order in this decision, as it was not raised during the CRT's facilitation

stage. The strata did not include this request in the Dispute Notice, and did not ask the CRT to amend the Dispute Notice, although it could have done so. For these reasons, I have not considered the strata's request for an order that the respondent remove all pets from the strata.

## **ISSUE**

10. Must the respondent pay \$6,800 in bylaw fines?

## **BACKGROUND**

11. As applicant in this civil dispute, the strata must prove its claim on a balance of probabilities. This means more likely than not. I have reviewed all the parties' evidence and submissions, but I only refer to what is necessary to explain my decision.
12. The strata filed a full set of bylaws with the Land Title Office in 2002. Of these bylaws, bylaw 5.1 says a resident or visitor must not keep any pets in the strata. The strata has filed various bylaw amendments since 2002, but bylaw 5.1 remains the same.
13. The strata sent the respondent a warning letter on March 9, 2022. The letter said a cat had been seen entering the respondent's strata lot. The letter cited bylaw 5.1, and said the respondent had an opportunity to respond to the alleged bylaw infraction within 14 days. The letter said the respondent might be fined \$200 for each bylaw contravention.
14. On March 16, 2022, the respondent emailed the strata manager and said they had a cat for emotional support.
15. On April 4, 2022, the strata wrote to the respondent, stating that the respondent was fined \$200 for breaching bylaw 5.1. The letter said the respondent might be fined \$200 for each contravention.
16. The strata says it sent the respondent further letters about bylaw 5.1 on September 15, 2022, and October 11, 2022. However, the strata did not provide copies of those

letters in evidence. On October 18, 2022, the strata fined the respondent another \$600 for “continuous contraventions” of bylaw 5.1 from October 3 to 18, 2022.

17. In an October 26, 2022 letter to the respondent, the strata wrote that it could not set a precedent by allowing the respondent to keep pets. The strata said the pets must be removed by November 25, 2022, and that failure to do so would result in continuing fines.

## **REASONS AND ANALYSIS**

18. As noted above, the respondent admits to keeping a cat. The strata says the respondent has 3 cats, which the respondent does not specifically deny. So, I accept that the respondent has 3 cats in his strata lot.
19. The respondent presents 2 arguments about why he should be permitted to keep his cats. First, he says they are necessary for emotional support. Second, he says the strata has permitted another strata lot owner to keep a cat. I address these 2 arguments in turn below.

### ***Emotional Support***

20. The strata filed this CRT dispute seeking payment of \$6,800 in bylaw fines on August 16, 2023. Prior to that, the respondent had provided the strata with 2 brief documents about needing a cat for emotional support. The first was the March 16, 2022 email stating the respondent and his wife (NK) had a cat for emotional support.
21. The second was a March 22, 2022 letter from NK’s doctor. The letter said that for emotional reasons, NK should be allowed to have a small dog and cat in-suite.
22. The evidence indicates that NK sent this doctor’s letter to the strata manager on April 7, 2022.
23. The strata says the council considered this medical letter, but found it was not sufficient evidence to allow for a bylaw exemption. I find this was a reasonable decision in the circumstances. Both the March 16 email and the March 22 doctor’s

letter are vague. They do not mention any particular diagnosis or reason why NK or the respondent need a pet for emotional support. Many people find pets to be a source of emotional support, but that does not mean they are exempt from pet bylaws.

24. Almost a year after the strata filed this CRT dispute, the respondent provided a letter from his physician Dr. Wong dated August 6, 2024. The letter said the respondent was suffering from 4 serious medical conditions, including cancer, for which he was currently receiving treatment. I will not detail these conditions, for privacy reasons. The letter said that having pets would “definitely help” the respondent’s mental state while dealing with all the physical stress he is going through.
25. I accept Dr. Wong’s letter as accurate. However, as previously stated, the respondent provided it to the strata through uploading evidence in this CRT dispute. The fines claimed in this dispute had been accruing since 2022, until the strata filed its dispute application in August 2023. Dr. Wong’s letter does not address this period. Also, I find it was reasonable for the strata to base its decision to impose fines from April 2022 to August 2023 on the information it had before it. It was open to the respondent to provide a more detailed medical letter sooner, but he did not do so.
26. For these reasons, I find it was reasonable for the strata to impose fines for violations of the pet bylaw from April 2022 to August 2024. I address whether this decision was discriminatory or significantly unfair in my reasons below.

### ***Discrimination***

27. The respondent says the strata discriminated against him by imposing fines for having cats, because the strata had allowed another owner to have a cat in the past.

### **Human Rights Code**

28. The respondent does not specifically refer to discrimination under the BC *Human Rights Code* (Code). However, I address the *Code* here for thoroughness.
29. To prove discrimination based on disability, a party must first prove they have a disability, which triggers a duty to accommodate. The party must then prove they

were adversely impacted by the strata's decision or action, and that the disability was a factor in the adverse impact.

30. The Code does not define "disability". However, there must be medical evidence of a disability to prove it. See *Levesque v. Moodie and Kicking Horse Village Mobile Home Park (No. 2)*, 2005 BCHRT 120.
31. I find the March 9, 2022 email and March 22, 2023 the respondent and NK provided to the strata fall short of proving a disability. Neither of them explain the medical reason for needing cats as emotional support animals. So, I find at the time the strata decided to fine the respondent for breaching bylaw 5.1, the respondent and NK had not proven they had a disability.
32. In *McNeil v. Telus Employer Solutions (TES) (No. 2)*, 2024 BCHRT 166, the BC Human Rights Tribunal said in paragraph 60 that "just as a respondent cannot use after-acquired medical evidence to justify decisions they made at the material time, a complainant cannot use after-acquired medical evidence to 'annul the reasonableness' of those decisions".
33. I agree with the reasoning in *McNeil*, and apply it here. The respondent did not provide medical evidence about a medical need for an exemption from the pet bylaw until about a year after the strata decided to impose fines. So, I find the strata's decision to impose fines was not discrimination under the Code.

### Significant Unfairness

34. Although the respondent does not specifically say so, I find the respondent essentially argues that the strata treated him significantly unfairly by not exempting him from the pet prohibition bylaw.
35. The CRT has authority to make orders preventing or remedying a strata corporation's significantly unfair actions or decisions. 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. In applying this test, the owner's (or

tenant's) objectively reasonable expectations are a relevant factor, but are not determinative. See *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173.

36. For the following reasons, I find it was not significantly unfair for the strata to fine the respondent for breaching bylaw 5.1.
37. The strata admits it allowed another owner to keep a cat for emotional support. It says this occurred in 2016, with a different strata council. The strata says the owner was in her 70s and was undergoing cancer treatment, and wrote a formal letter to the strata requesting permission to keep a cat for emotional support. The strata says the request letter was accompanied by a doctor's note and a note from the owner's therapist.
38. The strata said it permitted the owner to keep the cat, on the condition that the cat remain inside, and that the owner she provide a photo of the cat to the strata council so if the cat died, it could not be replaced.
39. The strata says the respondent's situation is different, because he never made a formal request to keep any cats for emotional support, because he has 3 cats, and because his cats are not confined indoors.
40. I agree that these facts made the respondent's situation different from the other owner's situation in 2016. More importantly, as explained above, the respondent and NK did not provide any detailed medical information about why they needed pets for emotional support until August 2024, after the fines were already imposed. The respondent's March 6, 2022 email stating that they had a cat for emotional support is vague, and was not supported by medical documentation. Also, it does not explain the why the respondent and NK needed 3 cats.
41. As explained above, I also find the March 22, 2022 letter from NK's doctor is vague and provides no reason why NK needed pets for emotional support. The letter only says that for emotional reasons, NK should be allowed to have a small dog and cat in-suite. This letter also does not explain the need for 3 cats.

42. This was the information the strata had when it decided to fine the respondent for breaching bylaw 5.1. For the reasons explained above, I find this decision was reasonable in the circumstances, and not significantly unfair. I find the situation of the owner who was permitted to keep a cat in 2016 was sufficiently different, since that owner made a formal request accompanied by medical and therapy documentation.
43. For these reasons, I find the strata reasonably fined the respondent \$6,800 for breaching bylaw 5.1. I order the respondent to pay that amount.
44. The *Court Order Interest Act* (COIA) applies to bylaw fine payments. I find the strata is entitled to prejudgment interest under the COIA on the bylaw fines. As the strata did not provide an accounting of when each fine was imposed, I find prejudgment interest applies from the date the strata filed this dispute, on August 16, 2023. This equals \$536.25.

## **CRT FEES AND EXPENSES**

45. As the strata was successful in this dispute, under the CRTA and the CRT's rules I find it is entitled to reimbursement of \$225 in CRT fees. Neither party claimed dispute-related expenses, so I order none.
46. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses to the respondent.

## **ORDERS**

47. I order that within 30 days of this decision, the respondent must pay the strata \$7,561.25, broken down as:
  - a. \$6,800 in bylaw fines,
  - b. \$536.25 in prejudgment interest under the COIA, and
  - c. \$225 for CRT fees.
48. The strata is entitled to postjudgment interest under the COIA.



49. This is a validated decision and order. The CRT's order can be enforced through the British Columbia Supreme Court (CRTA section 57). 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 (CRTA section 58). 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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Kate Campbell, Vice Chair