



# Civil Resolution Tribunal

Date Issued: April 24, 2025

Files: ST-2023-010752  
and ST-2023-010798

Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan BCS 3620 v. Roberts* 2025 BCCRT 513

**B E T W E E N :**

The Owners, Strata Plan BCS 3620

**APPLICANT**

**A N D :**

LINDA ROBERTS and LYNNE LACHANCE

**RESPONDENTS**

**A N D :**

The Owners, Strata Plan BCS 3620

**RESPONDENT BY COUNTERCLAIM**

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## REASONS FOR DECISION

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Tribunal Member:

Maria Montgomery

## INTRODUCTION

1. This is a dispute about a strata corporation's pet bylaw. It involves two linked disputes with the same parties, so I find I can issue one decision for both.
2. The applicant in ST-2023-010752, The Owners Strata Plan BCS 3620, says that a dog belonging to the respondents, Linda Roberts and Lynne Lachance, bit another dog on strata property. It seeks an order that the respondents comply with its dog bylaw by removing their dog from the strata.
3. The respondents deny that their dog bit another dog. In ST-2023-0107098, they ask for an order that the strata rescind its direction to remove the dog, remove all record of the biting incident, and cease and remove all fines.
4. The strata is represented by a strata council member. The respondents represent themselves.

## JURISDICTION AND PROCEDURE

5. 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.
6. 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. Further, 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.

7. 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.
8. 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.
9. The respondents provided two pieces of evidence which I could not open. At my request, CRT staff asked the respondents to resubmit the evidence and provided the strata an opportunity to comment on it, which it did. So, I have considered this evidence in my decision.

## **ISSUES**

10. The issues in this dispute are:
  - a. Did the respondents breach the strata's bylaw prohibiting vicious dogs from residing on the property, and
  - b. Did the strata impose fines in accordance with section 135 of the *Strata Property Act* (SPA)? If not, what remedies are appropriate?

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, the strata as the applicant must prove its claims on a balance of probabilities. This means more likely than not. The respondents must prove their claim to the same standard. 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 consists of one apartment building restricted to residents who are 55 years and older. The strata amended the Standard Bylaws to include Bylaw 3(4)(b) in 2009. The relevant portions are as follows:

No vicious dogs are permitted in any strata lot or on any portion of the common property. For purposes of this bylaw a vicious dog means the following:

- a. Any dog that has killed or injured any person or another animal while running at large;
- b. Any dog that aggressively harasses or pursues another person or animal while running at large;

13. The strata alleges the following. On September 9, 2023, EB left her strata lot to take the elevator to PA's (another resident) for dinner. She brought with her a lemon meringue pie and her dog. While she was walking down the hallway to the elevator, the respondents opened their door and began exiting their strata lot. Their Belgian Malinois attacked EB's dog, causing EB to drop the pie. EB called the strata president that evening to report the attack, who asked her to send a complaint in writing. EB did this with PA's assistance the next day.
14. EB later discovered that her dog had a bite wound on its neck that had been concealed by dog fur. EB brought her dog to the veterinarian on September 13, 2023. The veterinarian hospital records noted treatment of a bite wound on the back of the dog's neck for \$402.90.
15. The strata sent the respondents a letter by email on September 15, 2023, informing them that it had received a complaint that the respondents' dog was aggressive towards another dog, causing that dog to be hospitalized. The strata said that it had received other complaints about the respondents' dog as well. The strata said this was a contravention of its bylaws and asked the respondents to remove the dog within 14 days. Due to some miscommunication, the letter incorrectly cited September 13, 2023, as the date of the incident.
16. At their request, the respondents attended a council meeting on September 19, 2023, and explained that they were out of province with their dog on September 13. The strata decided to investigate further.

17. The strata gathered statements from EB, PA, the respondents and RS (the individual who discovered the bite wound). On September 18, 2023, the strata informed the respondents by letter that it had determined the incident occurred on September 9. The strata confirmed its earlier decision that the dog must be removed within 14 days.
18. On October 12, 2023, the strata informed the respondents that it was imposing a \$200 fine and that they had an opportunity to respond within 14 days. The respondents emailed a reply on October 16, asking for a meeting with 2 or 3 council members. There is no record of the strata's response. The respondents' Dispute Notice refers to more than one fine, but it is unclear if the strata fined the respondents further.
19. The respondents deny that their dog bit EB's dog. They say that during the incident, their dog barked but was wearing a muzzle and did not pass the threshold of their strata lot. They allege a number of inconsistencies with the strata's evidence, which I address below. They say that the strata was procedurally unfair in coming to its decision to impose fines and require removal of the dog.

***Are the respondents in breach of the strata's bylaws prohibiting vicious dogs from residing on the property?***

20. The strata says that due to the above noted incident, other complaints it received, and its opinion that Belgian Malinois dogs are not suitable for a building restricted to those 55 or older, the respondents' dog must be removed from the building. In reply submissions, the strata clarifies that there have been no other formal complaints. I find the question of the suitability of a specific breed for an age restricted apartment building is not relevant to the issue here, which is whether the respondents' dog is prohibited by Bylaw 3(4)(b). I also decline to rely on the informal complaints the strata received because these details were not brought to the respondents' attention until this hearing.
21. Ultimately, I find I do not need to make a finding about whether the respondents' dog bit EB's dog. This is because I find that, even if there had been a bite, the incident is insufficient to qualify the respondents' dog as a vicious dog under the bylaw.

22. Bylaw 3(4)(b) says that a vicious dog is one that has “*injured any person or another animal while **running at large***” or that “*aggressively harasses or pursues another person or animal while **running at large***” (bold emphasis added). According to both EB’s statement and the respondents, the dog was leashed during the incident. There is no suggestion that neither of the respondents was holding the leash. So, I find the dog could not have been “running at large” and so is not a vicious dog as defined by Bylaw 3(4)(b). I order the strata to rescind its direction to remove the dog and remove any related fines.
23. Even if I had not found that the respondents did not breach the bylaw because their dog was not running at large, I would still find that the strata has not established that the respondents breached the bylaw. This is because I am not satisfied on the evidence before me that the respondents’ dog bit EB’s dog. First, the delay from September 9 to September 13 is a problem for the strata’s position. Specifically, I agree with the respondents that EB’s dog could have acquired the injury through some other incident during the day of September 10, 11 or 12 as the injury was not discovered until September 13, 2025, according to a witness statement from RS. Also, I agree with the respondents that it is unlikely the bite wound could have escaped EB’s attention for this amount of time.
24. I also note the following inconsistencies with the strata’s submissions and evidence on the details of the bite wound discovery. The strata says EB noted her dog’s distress and discovered the wound on September 12. The veterinarian hospital document also noted that EB discovered the wound on the night of September 12. However, RS’s handwritten note says they discovered the wound on September 13 at 9am, while also making a reference to September 12 in the next paragraph (Tuesday). These inconsistencies suggest the strata’s evidence may not be reliable.

25. Though I have already found that the strata must remove any fines, I comment below on the strata's process in imposing fines.

***Did the strata impose fines in accordance with section 135 of the SPA? If not, what remedies are appropriate?***

26. Section 135 sets out procedural requirements the strata must follow before imposing bylaw fines. Under SPA section 135(1), before imposing fines, the strata must have received a complaint, provided details to the owner and a reasonable opportunity to answer the complaint, including a hearing if one is requested. Under section 135(3), the strata may assess continuing fines without further notice.

27. These procedural requirements are strict, with no leeway. If the strata does not perfectly comply with section 135, any resulting fines are invalid. See *Terry v. The Owners, Strata Plan NW 309*, 2016 BCCA 449, and *The Owners, Strata Plan NW 307 v. Desaulniers*, 2019 BCCA 343.

28. Here, the strata's first communication to the respondents did not contain the correct particulars of the complaint because it cited the date incorrectly. Without the correct details, the respondents were not able to respond fully when meeting with council on September 20, 2023. So, this meeting did not satisfy section 135's requirement that the strata provide a hearing upon request.

29. After the respondents received the correct details of the complaint in writing and the strata informed them of the fine, they requested a meeting with strata council members. The respondents say they did not receive a response to this request which the strata does not dispute. I find the strata breached section 135 by failing to provide a hearing when requested by the respondents. This means that if I had not already found the strata must remove the fines, I would find the fine invalidly imposed due to the failure to grant a hearing upon request.

30. I decline to grant the respondents' requested order that any record of the September 9, 2023, incident be removed from strata records as the strata has a responsibility under section 35(2)(k) to retain correspondence.

## **CRT FEES AND EXPENSES**

31. 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. As the respondents were largely successful, I find they are entitled to reimbursement of the \$125 they paid in CRT fees from the strata. Neither party claimed any dispute-related expenses. I dismiss the strata's claim for CRT fees.

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

## **ORDERS**

33. I order the strata to:

- a. Rescind its direction to remove the respondents' Belgian Malinois from their strata lot,
- b. Cease fining the respondents in relation to the September 9, 2023, incident and remove any related fines from the respondents' strata lot account, and
- c. Pay to the respondents \$125 in CRT fees.

34. I dismiss the strata's claims.



35. 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.

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Maria Montgomery, Tribunal Member