



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *The Owners, Strata Plan BCS1347 v. Gwardys*, 2025 BCCRT 790

B E T W E E N :

THE OWNERS, STRATA PLAN BCS1347

APPLICANT

A N D :

BOGUSLAWA JOZEFA GWARDYS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Jeffrey Drozdiak

INTRODUCTION

1. This strata property dispute is about expenses from a water leak.
2. The respondent, Boguslawa Jozefa Gwardys, owns strata lot 223 (SL223) in the applicant strata corporation, The Owners, Strata Plan BCS1347 (strata). The strata alleges water leaked from SL223, causing damage to a neighbouring strata lot. The

strata paid \$5,233.91 for emergency repairs and argues the respondent must reimburse it for these expenses. The strata limits its claim to \$5,000, which I will discuss in further detail below.

3. The respondent argues the water leak did not originate from their strata lot and they are not responsible for the repair costs.
4. The strata is represented by a strata council member. The respondent is represented by their son, who is not a lawyer. The respondent's son provided their own pronouns, but not their parent's pronouns. So, I respectfully refer to Boguslaw Jozefa Gwardys as the respondent and use "they" in this decision.
5. For the following reasons, I dismiss the strata's claims against the respondent.

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). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. The CRT must act fairly and follow the law. It must also recognize any relationships between dispute parties that will likely continue after the CRT's process has ended.
7. CRTA section 39 says the CRT has discretion to decide the hearing's format, including by writing, telephone, videoconferencing, email, or a combination of these. In some respects, the parties call into question the credibility, or truthfulness, of the other's evidence. Under the circumstances, I find that I am properly able to assess and weigh the evidence and submissions before me without an oral hearing. In *Downing v. Strata Plan VR2356*, 2023 BCCA 100, the court recognized that oral hearings are not necessarily required where credibility is in issue. Neither party requested an oral hearing. So, bearing in mind the CRT's mandate for proportionality and a speedy resolution of disputes, I decided to hear this dispute through written submissions.

8. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary, and appropriate, whether or not the information would be admissible in court.

Strata Property Jurisdiction

9. The strata limited its monetary claim to \$5,000. It says it did this to comply with the CRT's small claims monetary limit. However, the strata brought this dispute under the CRT's strata property jurisdiction, which does not have a monetary limit.
10. CRTA section 121 says the CRT's jurisdiction over strata property claims is limited to claims that are "in respect of" the *Strata Property Act* (SPA). As I discuss below, the strata relies on its bylaws to support its reimbursement claim. So, I find the strata's claim is about the application of a bylaw, which is covered under CRTA section 121(1)(a). Given this, I find the CRT's small claims monetary limit does not apply to this dispute. In any event, nothing turns on this, considering I dismiss the strata's claims.

ISSUE

11. The issue in this dispute is whether the respondent must reimburse the strata for emergency repairs arising from a water leak.

STRATA BACKGROUND

12. The strata is a phased strata and was created in June 2005. The strata has two apartment buildings with a total of 231 residential strata lots. From the strata plan, SL223 is on the seventh floor of the "East Building".
13. The strata filed a complete new set of its bylaws with the Land Title Office on August 25, 2006. The bylaw amendment confirms that the Standard Bylaws under the SPA do not apply. I find the bylaws in the August 25, 2006 amendment are the bylaws that apply to this dispute.

14. The relevant bylaw in this dispute is bylaw 1(5)(c). The strata amended this bylaw on November 13, 2019. I will discuss this amendment in further detail below.

EVIDENCE AND ANALYSIS

15. In a civil proceeding like this one, the strata, as the applicant, must prove its claims on a balance of probabilities (meaning “more likely than not”). The strata had the opportunity to provide reply submissions but did not do so.
16. While I have reviewed all the parties’ evidence and submissions, I only refer to what is necessary to explain my decision.

The Water Leak

17. On January 19, 2022, the strata manager discovered water on the floor of the common property hallway outside SL223. The strata contacted Phoenix Restorations Ltd. (Phoenix) to complete emergency repairs.
18. On January 20, 2022, Phoenix provided the strata with a report summarizing its work. In the report, Phoenix provided photographs of some of the damage. They wrote that they were monitoring water damage in SL223’s laundry closet and coat closet, as well as water damage to the strata lot, which I infer is directly below SL223. Notably, the report does not say what caused the water leak or where it originated from.
19. On March 1, 2022, Phoenix provided the strata with its invoice for \$5,233.91. Phoenix’s services included labour, supplies, providing drying equipment, and applying anti-bacterial and anti-microbial agents. The strata paid the invoice.
20. On April 19, 2022, the strata manager wrote to the respondent enclosing Phoenix’s invoice. In the letter, the strata manager asked the respondent to reimburse it for the attached invoice, but did not explain why. One week later, the respondent wrote to the strata manager, denying that the water leak came from their strata lot.

21. After the respondent refused to reimburse the strata for the emergency repairs, the strata added this expense as a chargeback to the respondent's strata lot account.

Must the Respondent Reimburse the Strata for the Emergency Repairs?

22. Based on the facts in this dispute, to charge the respondent for its costs, the strata must have a valid and enforceable bylaw giving it the authority to do so (see *Rintoul et al v. The Owners, Strata Plan KAS 2428*, 2019 BCCRT 1007 at paragraphs 33 to 38, citing *Ward v. Strata Plan VIS #6115*, 2011 BCCA 512).
23. The strata relies on bylaw 1(5)(c) to support its claim. This bylaw says the strata is not financially responsible to an owner for any loss, damage, or expense arising from water leaks from a strata lot where the leak is caused by a part of the strata lot that the owner must maintain under the bylaws.
24. Bylaw 1(5)(c) also says, if an owner is responsible for any loss or damage to a strata lot, common property, or limited common property, that owner must indemnify and save harmless the strata from any repair expense not covered by insurance. The strata provided evidence that its insurance deductible for water damage is \$100,000 and it did not make an insurance claim for the emergency repairs.
25. So, the issue I must decide is whether the respondent is "responsible" for the water leak. Bylaw 1(5)(c) defines "responsible" as any act or omission of the owner, and their tenants, occupants, visitors, and agents.
26. The respondent argues the water leak did not originate from their strata lot, and they are not responsible for the damage. After discovering water in the hallway, the respondent says the building manager knocked on their door and entered SL223 to investigate. They say the laundry room floor was dry and dusty and the water was along a baseboard attached to SL223's common wall with the hallway. The respondent says the building manager and Phoenix's technician were unable to determine where the leak came from.

27. The respondent provided labelled photographs showing SL223's laundry room and where the building manager found water in the hallway. In one photograph, the respondent also highlighted an adjacent spot where a prior leak had occurred that was caused by the building's structure. They argue this leak may have had a similar origin.
28. The respondent also argues that recent plumbing work could have caused the water leak. The respondent says the strata was replacing all the water lines in the ceiling of the hallway outside SL223. The respondent's son says 24 to 36 hours before the leak was discovered, he heard the workers hammering on the copper pipes for an entire day.
29. As I note above, the strata did not provide any reply submissions. So, it does not address the respondent's submission that the replacement of water lines could have caused the leak. Instead, the strata argues that the water leak originated from SL223, and it arose from human error. In support, the strata provided a December 11, 2024 email from JA, Phoenix's project manager.
30. In the email, JA wrote, "A attended to site and advised they believed the source was from (SL223) and caused by human error." JA noted that the emergency breakdown was attached. However, the strata did not provide this attachment in evidence.
31. The strata did not provide a statement from A confirming their findings. So, I find JA's email is hearsay evidence, meaning a statement made outside the CRT proceeding that a party asks to use to prove the statement's truth. Hearsay evidence is generally inadmissible.
32. CRTA section 42 says I may accept hearsay evidence where relevant, but I must weigh the evidence based on its reliability and other factors. There is no evidence before me about who A is, what they observed, and what they based their conclusions on. JA also did not say if A had determined where specifically in SL223 the water came from. Given this lack of detail, I find JA's email is unreliable and I place no weight on it. Since the strata relies on this hearsay evidence to prove the

central issue in this dispute, I am not satisfied it has proven that the respondent was responsible for the water leak.

33. Without more, I find the strata has not proven that the respondent must reimburse it for emergency repairs under bylaw 1(5)(c). So, I dismiss the strata's claim for \$5,000.

CRT FEES AND INTEREST

34. 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. The strata was unsuccessful, so I dismiss its claim for CRT fees and pre-judgment interest. The respondent did not pay any CRT fees, or claim any dispute-related expenses, so I order none.
35. The strata must comply with SPA section 189.4, which includes not charging dispute-related expenses to the respondent.

ORDER

36. I dismiss the strata's claims and this dispute.

Jeffrey Drozdiak, Tribunal Member