



# Civil Resolution Tribunal

Date Issued: August 6, 2025

File: ST-2024-004433

Type: Strata

Civil Resolution Tribunal

Indexed as: *Simpson v. The Owners, Strata Plan BCS 3591*, 2025 BCCRT 1093

B E T W E E N :

JESSICA SIMPSON

**APPLICANT**

A N D :

The Owners, Strata Plan BCS 3591

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Mark Henderson

## INTRODUCTION

1. This dispute is about accommodation for a hearing impairment and allegations of discriminatory bylaw enforcement.
2. The applicant, Jessica Simpson, owns strata lot 33 (SL33) in the respondent strata, The Owners, Strata Plan BCS 3591. Ms. Simpson says the strata has unreasonably

refused to accommodate her hearing impairment by refusing to provide a virtual hearing platform equipped with real-time captioning for council meetings and council hearings that she attends. Ms. Simpson seeks an order for the strata to provide a virtual hearing platform with captioning for her participation at council proceedings. Ms. Simpson also seeks \$5,000 in compensatory damages for its refusal to accommodate Ms. Simpson's impairment.

3. Ms. Simpson also says that the strata has been enforcing bylaw 45.11, which prohibits storing items on a balcony, against her while permitting other residents to continue storing items on their balcony. Ms. Simpson seeks an order for the strata to cease the unequal bylaw enforcement. Ms. Simpson also seeks an order requiring the strata to prove the alleged bylaw infraction.
4. The strata says it has accommodated Ms. Simpson's captioning needs when requested. The strata says Ms. Simpson has not proved that her requested accommodation is medically necessary to justify a permanent change in the strata's online meeting platform choice. The strata also denies that it has enforced bylaw 45.11 unequally or in a discriminatory way.
5. Ms. Simpson represents herself. A strata council member represents the strata.

## **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. 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.

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. Is Ms. Simpson entitled to the requested accommodation to have an online platform with captioning for strata meetings and hearings that she attends?
- b. Is the strata unfairly enforcing bylaws against Ms. Simpson for items on her balcony?
- c. Did the strata provide adequate notice of the bylaw complaint on March 22, 2024, or June 21, 2024?

## **EVIDENCE AND ANALYSIS**

11. In a civil proceeding like this one, as the applicant, Ms. Simpson must prove her 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 was created in 2009 under the *Strata Property Act* (SPA). The strata consists of 120 strata lots across a four-story apartment building. The strata repealed and replaced its bylaws in March 2019. Bylaw 45.11 says that residents must not permanently install or place anything on limited common property or common property except that residents can put free standing planter boxes or plant containers and summer furniture and accessories on their balconies.
13. On May 18, 2023, the strata sent Ms. Simpson and 4 other owners a bylaw infraction notice for bylaw 45.11 contraventions. Neither party provided evidence to show whether Ms. Simpson received a fine following this bylaw notice.
14. On March 22, 2024, the strata sent Ms. Simpson a further notice alleging she had contravened bylaw 45.11. On March 28, 2024, Ms. Simpson requested a hearing about this alleged bylaw contravention. On April 5, 2024, the strata notified Ms. Simpson that the hearing was scheduled for April 11, 2024, on the strata's GoTo Meeting app, which does not support captioning. Ms. Simpson replied on April 5, requesting that the meeting be held on an accessible platform that supports captioning, such as Zoom. The strata denied Ms. Simpson's request to hold the hearing on Zoom or another platform that supports captioning.
15. On April 11, 2024, the council hearing proceeded but Ms. Simpson did not attend. The strata decided to levy a \$100 fine against Ms. Simpson. On April 17, 2024, the strata wrote to Ms. Simpson notifying her of its decision. On April 23, 2024, Ms. Simpson requested another council hearing with closed captions after receiving the April 17 letter. The strata later agreed to conduct the hearing portion of its May 30, 2024, meeting on Zoom if Ms. Simpson agreed to make a council member or the property manager the host of the Zoom meeting. Ms. Simpson agreed to this requirement, and the hearing proceeded on May 30, 2024. On June 21, 2024, the strata issued a further \$100 fine for Ms. Simpson's failure to rectify the continuing bylaw contravention.

16. Ms. Simpson says the strata unreasonably refused to accommodate her hearing impairment. She also says the strata did not provide sufficient details in its bylaw enforcement notice of which items on Ms. Simpson's balcony contravened bylaw 45.11. Ms. Simpson further says the strata has unfairly discriminated against her by enforcing bylaw 45.11 against her while not enforcing bylaw 45.11 against other residents.
17. The parties have an extensive history which includes nine previous CRT claims and three Human Rights Tribunal (HRT) claims. The strata says that these prior claims warrant its claims for dispute-related expenses, which I address in more detail below.

***Is Ms. Simpson entitled to the requested accommodation?***

18. Under section 8 of the *Human Rights Code* (Code), strata corporations have a duty to accommodate people with physical and mental disabilities, unless doing so would create undue hardship. See *Konieczna v. The Owners Strata Plan NW2489*, 2003 BCHRT 38 and *Mitchell v. The Owners, Strata Plan VR284*, 2023 BCCRT 1008.
19. To establish a claim based on disability under the Code, Ms. Simpson must first prove she has a disability, which then triggers a duty to accommodate. Ms. Simpson must also demonstrate the lack of accommodation, here the captioning in the meetings, has an adverse impact on her. She must also show a connection between the adverse impact and her disability. After that, the burden shifts to the strata to establish a genuine and reasonable justification for refusing the accommodation.
20. The Code does not define "disability". However, Ms. Simpson submitted evidence she has been diagnosed with irreversible hearing loss in both ears, for which she wears hearing aids. Ms. Simpson also says that her hearing impairment has caused a sense of isolation and inability to fully participate in the strata's democratic processes, including the strata's meetings and hearings.
21. The strata says it has accommodated Ms. Simpson's requests for its council hearings on May 11, 2023, and May 30, 2024. But the strata admits that it did not accommodate Ms. Simpson's request for captioning to attend the April 11, 2024, hearing.

22. The strata also says Ms. Simpson has not proved she has a disability that prevents her from participating in audio-video conferences. The strata relies on Ms. Simpson's Hearing Assessment Report provided by Dr. Beth Feltner of Wavefront Centre for Communication Accessibility on March 30, 2023. This report says Ms. Simpson was experiencing some bilateral sensorineural hearing loss. However, the strata says the report did not identify severe issues with Ms. Simpson's speech recognition and word understanding. The strata says Ms. Simpson did not provide documents from healthcare professionals to support her claim that she was unable to participate in video conferences without closed captions.
23. The strata also says that Ms. Simpson participated in prior council meetings without captioning technology and can have conversations with strata council members without difficulty.
24. The strata further relies on the HRT's decision in *Verozinis v. Kot Auto Group, dba Maple Ridge Hyundai* (No. 2), 2020 BCHRT 156, where the HRT found no adverse impact on the complainant despite a hearing impairment because the HRT found that the complainant understood the transaction despite his hearing impairment. The strata says that Ms. Simpson was able to understand and engage in conversation with strata council members and therefore did not suffer an adverse impact.
25. The strata says that it accommodated Ms. Simpson's request for captioning at the May 2023 meeting on an unrelated matter and at the May 2024 hearing by holding the meetings on Zoom, rather than on GoTo Meeting. The strata says there is no evidence that Ms. Simpson used the captioning feature at the May 2023 meeting or the May 2024 meeting. So, the strata says that Ms. Simpson does not require captioning. Ms. Simpson disputes the strata's position and says that she relied on the captioning feature at the May 2023 meeting. Ms. Simpson says that she was able to understand the meetings because of the captions.
26. I note the strata included a statement from a strata council member who attended both meetings. The strata council member says they did not observe captions on their screen in either meeting. In a May 19, 2023, email, Ms. Simpson disputed the strata's

claim that she did not rely on the captions at the May 11, 2023, meeting. Despite this competing evidence, I find there is no evidence before me that conclusively shows whether other meeting participants would be aware if Ms. Simpson was using captions on her computer. Based on Ms. Simpson's May 19 email, I accept that she relied on the captioning to participate in the May 2023 meeting.

27. I also accept Ms. Simpson's evidence that she has hearing loss which is managed with the use of hearing aids. I do not accept the strata's argument that Ms. Simpson must prove a specific need for closed captioning beyond proving that she has permanent hearing loss. Rather, Ms. Simpson must prove that the lack of closed captioning causes her an adverse impact.

28. I find that it is reasonable that a person with hearing impairment could find it difficult to participate in a video conference. I find that poor video quality or a poor internet connection could also impair the quality of the picture and audio so that a person with hearing loss may find it harder to fully participate. But I find that none of these factors require expert medical evidence to prove. I am satisfied that Ms. Simpson has proved she has hearing loss. I find that it is reasonable that failure to accommodate her hearing loss in a council hearing setting would lead to the adverse impact that Ms. Simpson describes, namely the reduced ability to participate in the proceedings. I also find that Ms. Simpson's past attendance at in-person meetings and her ability to have face-to-face conversations do not automatically mean that she does not require captioning to participate in virtual meetings. I say this because it is common human experience that communicating in person is not an identical aural experience to communicating online. So, I find that Ms. Simpson has proved an adverse impact from the strata's refusal to accommodate her disability at the April 2024 meeting.

29. The strata's explanation for not accommodating Ms. Simpson's request is that it believed she did not need captions and was therefore needlessly making the request. In support of this argument the strata offered various information including that Ms. Simpson attended in-person meetings before the COVID-19 pandemic and did not appear to need closed caption or other hearing assistance. The strata also said that its representatives did not notice closed captioning on their screens at the May 2023

meeting. However, I find that none of these explanations provide a reasonable basis for denying the request for accommodation when confronted with Ms. Simpson's explanation that she needed the closed captioning to fully participate in the proceedings. For example, the strata did not explain why it cannot hold its meetings and hearings over Zoom rather than GoTo Meeting. In the absence of this evidence, I find that the strata has not proved a reasonable justification for refusing to accommodate Ms. Simpson's request to hold the April 2024 hearing on Zoom or another virtual meeting service that provides real time closed captioning.

30. Ms. Simpson requests an order that the strata provide a platform for closed caption access for future meetings and hearings. Since I have found the strata has not provided a reasonable justification for refusing the accommodation, I find Ms. Simpson is entitled to this accommodation on an ongoing basis. So, I order the strata to provide access to an online platform that supports captioning for attending strata meetings and hearings, when requested.
31. Ms. Simpson requested a damages award of \$5,000 for the strata's refusal to accommodate her disability. Since I have found that the strata refused to accommodate her request at the April 2024 meeting but accommodated her request at the May 2023 and May 2024 meetings, I find that Ms. Simpson's requested award is not supported in the circumstances.
32. Ms. Simpson also did not explain why she decided not to attend the April meeting despite the strata's refusal to accommodate her request. Ms. Simpson could have registered her objection to the strata's refusal to accommodate her request or otherwise participated through a chat function if one was available. So, I find that Ms. Simpson contributed to her inability to participate in the hearing process by not attending the April meeting. For these reasons, I dismiss Ms. Simpson's claim for damages.

***Is the strata unfairly enforcing bylaw 45.11 against Ms. Simpson?***

33. Ms. Simpson says the strata has singled her out for bylaw enforcement regarding the items on her balcony. Ms. Simpson says there are many other balconies with



prohibited items. Ms. Simpson provided photographs of other balconies with prohibited items to support her argument. I find that Ms. Simpson's photos show many different balconies on different dates with prohibited items, including, paint cans, pet carriers and cases of bottled water. Ms. Simpson's photos also show permitted items including planter boxes and summer furniture.

34. The strata denies singling out Ms. Simpson for unequal or discriminatory bylaw enforcement. To support its denial, the strata provided details of its bylaw enforcement activities. In addition to the 4 other owners who were notified of contravening bylaw 45.11 on May 18, 2023, the strata provided details of 13 other notices sent to other owners for bylaw 45.11 contraventions either on balconies or patios between January 5, 2023, and September 19, 2024.
35. I find that the strata's evidence shows that it has been conducting bylaw enforcement against other strata owners for prohibited items on balconies. So, I find that Ms. Simpson has not proved that the strata singled her out for enforcement of bylaw 45.11 while declining to enforce it against other owners. For that reason, I dismiss this part of Ms. Simpson's claim.

***Did the strata provide adequate notice of Ms. Simpson's alleged bylaw contravention?***

36. SPA section 135 says the strata must not impose a fine without first receiving a complaint about the contravention, giving the owner or tenant the particulars of the complaint in writing, and a reasonable opportunity to answer the complaint.
37. Ms. Simpson says the strata has not provided sufficient particulars of the alleged bylaw contravention to support its bylaw fines. Specifically, she says the strata has not described what items on her balcony were prohibited and needed to be removed.
38. In each of the bylaw contravention notices, the strata says that it has received a complaint of storing restricted items on the balcony. The strata did not describe, or provide pictures of, the restricted items in any of its bylaw notices to Ms. Simpson. Based on my review of the other bylaw notices the strata sent to other owners, I note that the strata sometimes describes the restricted items that must be removed, such

as bicycles, but sometimes does not describe any restricted items, only stating that it has received a complaint about restricted items.

39. I note that bylaw 45.11 provides a narrow exception for planters, plant containers, summer furniture and accessories. It is not clear what accessories are permitted. I also note that bylaw 4.6 permits one barbeque per unit and a reasonable number of patio furniture, including benches, chairs, storage box and table sized umbrellas on a balcony.
40. On March 26, 2024, Ms. Simpson sent an email to the strata disputing the bylaw enforcement notice. She asked for clarification about what items were prohibited. She said she had a plastic drawer used to store barbeque supplies, a table and a barbeque. The strata says that it referred Ms. Simpson to the bylaws to understand what items are prohibited. Based on my reading of bylaw 45.11 and bylaw 4.6, I find that it is not clear from the bylaw alone what items on Ms. Simpson's balcony are prohibited under bylaw 45.11.
41. At the May 2024 hearing, Ms. Simpson undisputedly asked for clarification about what items on her balcony were prohibited. The strata undisputedly referred Ms. Simpson to the language in bylaw 45.11, without providing any other clarification.
42. I find that the strata has not clearly stated in the bylaw notices or at the hearing what items on Ms. Simpson's balcony contravened bylaw 45.11. So, I find that the bylaw notices do not provide sufficient particulars of the alleged bylaw contravention and are therefore invalid. Since I find the bylaw notices are invalid, I also find that the strata must cancel the \$200 in bylaw fines that it issued for this bylaw contravention.

## **CRT FEES AND EXPENSES**

43. 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. Ms. Simpson was more successful than the strata but paid no CRT fees.

44. Both parties seek dispute-related expenses for their legal fees, although only the strata raised the specific issue in its Dispute Response. Ms. Simpson did not specifically claim legal fees in her Dispute Notice but included a claim for legal fees in her submissions. CRT rule 9.5(3) says that the CRT will only order reimbursement of legal fees in strata property claims in extraordinary circumstances.
45. Ms. Simpson seeks \$10,000 for her legal expenses but did not provide evidence, such as invoices or receipts to support these alleged expenses. So, I dismiss Ms. Simpson's claim for legal fees.
46. The strata seeks \$9,010.93 for legal fees incurred in this dispute. The strata provided detailed submissions in support of its claim for its legal fees. In particular, the strata outlines the extensive history of litigation between the parties as justification for its request for legal fees. While I have reviewed those submissions, I find the history of litigation between the parties, by itself does not create an extraordinary circumstance warranting the strata's claim for its legal fees. I find this is especially true as I have found that the strata did not provide a reasonable justification for its refusal to accommodate Ms. Simpson's request for captioning and did not follow SPA section 135 in issuing the bylaw notice. Since the strata was largely unsuccessful in this dispute, I find that it is not entitled to payment of its legal fees.
47. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Ms. Simpson.

## **ORDERS**

48. I order the strata, on Ms. Simpson's request, to provide an online platform that supports captioning for strata meetings and hearings.
49. I order the strata to remove the bylaw fines totaling \$200 issued on April 17, 2024, and June 21, 2024, from Ms. Simpson's account.
50. I dismiss Ms. Simpson's other claims and the strata's claim for legal fees.

51. 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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Mark Henderson, Tribunal Member