



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Richardson v. The Owners, Strata Plan EPS 7150*, 2025 BCCRT 1112

B E T W E E N :

WAYNE G RICHARDSON and STEPHANIE ANNE STEPHENS

APPLICANTS

A N D :

The Owners, Strata Plan EPS 7150

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

David Jiang

INTRODUCTION

1. This strata dispute is about a \$200 fine for nuisance. The applicants, Wayne G Richardson and Stephanie Anne Stephens, are tenants in a strata lot in the respondent strata corporation, The Owners, Strata Plan EPS 7150 (strata). The applicants say the strata fined them for allegedly overwatering their plants and causing water to drip onto several balconies below. They say the strata levied the

fine without sufficient evidence. They seek an order for the strata to reverse the fine and give a formal apology.

2. The strata disagrees. It says the fine was supported by several complaints, photos and videos of wet items, council members observing water dripping from the applicants' balcony, and the applicants' own messages.
3. Mr. Richardson represents the applicants. A strata council member represents the strata.
4. For the reasons that follow, I dismiss the applicants' claims.

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 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.
7. 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.

ISSUE

8. The issue in this dispute is whether the strata must reverse the \$200 fine for nuisance.

BACKGROUND, EVIDENCE AND ANALYSIS

9. In a civil proceeding like this one, the applicants must prove their 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.
10. The background facts are undisputed except where noted. The strata plan shows the strata's building has 4 floors. Strata lots on the second, third, and fourth floor all have outdoor balconies. Strata lots on the first floor have outdoor patios. The applicants rent a strata lot located on the third floor of the strata.
11. The strata uses the bylaws set out in the *Strata Property's Act* (SPA) with amendments filed in the Land Title Office. I discuss the relevant bylaws below.
12. Photos show that the applicants have 2 large flowerpots with flowers in them. On June 29, 2023, a strata council member, SM, messaged Mrs. Stephens. SM asked her to put drip trays underneath the plants. They said that water was dripping from the plants onto the first floor.
13. Mrs. Stephens did not deny that water dripped from her balcony. She replied that she used towels and would water the plants less. She also said the amount of dripping water was not a lot.
14. The next day Mrs. Stephens messaged the strata. She said she had just watered the plants and put down towels. She admitted that a "bit of water dripped".
15. On July 4, 2023, Mr. Richardson purchased 2 drip trays, as shown in a receipt.
16. On July 13, 2023, SM emailed the strata manger, NV, to complain that Mrs. Stephens kept watering the plants. They said this caused water to drip down to the 2 strata lots below, and theirs as well. They said this caused their balcony glass to become dirty. The other strata council members were included as recipients and 3 of them agreed to send the notice.

17. The strata sent a bylaw infraction letter on July 27, 2023. This letter is not before me, but it is referred to in other correspondence and submissions. No one alleges that it fails to fulfill the requirements of *Strata Property Act* (SPA) section 135. These include giving the applicants particulars of the complaint and a reasonable opportunity to respond or request a council hearing.
18. The strata did not decide to levy the fine immediately and continued to receive complaints. On July 31 and August 2, 2023, a resident on the first floor, KG, complained to the strata about further water from the applicants' balcony. KG also provided photos and videos of the water on their concrete patio. KG said these problems were ongoing and that they "could literally send you [such photos] every day".
19. On October 31, 2023, the strata sent a letter to the applicants. The strata said it decided to levy a \$200 under its nuisance bylaws for the repeated overwatering, leading to dripping. On November 23, 2023, the applicants' landlord, NK, emailed the strata manager, NV. NK said that applicants wished to have a hearing about the fine. The strata held the hearing on November 30, 2023. In a December 7, 2023 letter, the strata said that it would maintain the \$200 fine for the watering nuisance.

Must the strata reverse the \$200 fine for nuisance?

20. In its October 2023 letter the strata said it levied the \$200 fine for contraventions of bylaw 3(1). Bylaw 3(1) says in part that a tenant must not use a strata lot, the common property, or common assets in a way that (a) causes a nuisance or hazard to another person or (c) unreasonably interferes with the rights of other persons to use and enjoy the common property, common assets, or another strata lot.
21. The strata is entitled to levy fines to enforce bylaws under SPA section 130. In June 2022, the strata filed an amendment to bylaw 23. The amendment allows the strata to fine a tenant up to \$200 for each contravention of a bylaw.
22. The strata only levied a single \$200 fine. So, I find the strata only needs to prove a single bylaw breach to legally justify its fine. I find it clear that, at a minimum, Mrs.

Stephens breached bylaw 3(1) twice in June 2023. The first occurred on June 29, 2023. As noted above, Mrs. Stephens did not deny the strata's allegation that water dripped from her balcony that day. The strata also provided a June 29, 2023 video of water dripping from the applicants' strata lot. The second occurred the next day, when Mrs. Stephens admitted that some water dripped from her balcony after she watered her plants.

23. I also find that the dripping water was a nuisance. The July 2023 emails and October 2023 correspondence indicates the water was dirty as it caused balcony glass below to require cleaning. I find this would likely be the case, as the dripping water originated from watering plants.
24. The applicants say that the dripping water actually came from a malfunctioning air conditioner condenser unit located on the fourth floor, owned by HR, a strata council member. The applicants provided photos of the air conditioner hose, but it is not apparent from the photos that the hose has any flaws.
25. In support of their submissions, the applicants provided a January 17, 2024 witness statement from JK. JK said the following. JK lives in the strata lot directly above the applicants and adjacent to HR. HR told JK that the dripping water originated from their improperly installed air conditioner hose.
26. The applicants also say that HR admitted to Mrs. Stephens in September 2024 that they were responsible for the dripping water.
27. There is no direct evidence from HR in this dispute. However, in an April 22, 2024 letter, the strata said that HR "did not accept full responsibility" for the dripping water. HR advised the strata that Mrs. Stephens "confronted" HR on February 8, 2024, and to avoid conflict, HR might have given the impression they were taking responsibility.
28. Overall, I find it unlikely that HR or their air conditioner caused the water nuisance. As noted by the strata, a July 19, 2023 email shows that a contractor installed the air conditioner on July 21, 2023. Consistent with this, the contractor issued an

invoice dated July 22, 2023 to HR. This means the air conditioner was not responsible for the June 2023 infractions noted above. I reiterate that the strata does not need to prove any nuisance beyond June 2023 to support its fine.

29. The applicants say the installation date is unproven, but I disagree given the information in both the email and invoice. They also question the validity of these documents, but I find these submissions speculative.
30. I also find it unlikely that HR took responsibility for the dripping water. The air conditioner installation date contradicts the submission that HR did so. Further, HR did not provide any evidence in support of the applicants in this dispute.
31. The applicants point out that they purchased drip trays. I acknowledge that they did so, but the receipt shows this occurred in July 2023, after Mrs. Stephens had already breached the bylaws.
32. The applicants also say that they could not be the source of the dripping water because of the design of the self-watering planters they use. They provided a photo of the bottom of one of the planters. The applicants also provided a January 3, 2024 letter from a cleaner, CS. CS said that they cleaned the applicants' balcony and never observed any overwatering or water on the balcony.
33. I find the photo and CS's evidence are insufficient to prove the applicants' submissions. I was unable to tell from the photo alone whether the planters could prevent any overflow from overwatering. Further, CS's evidence and the applicants' submissions are contradicted by Mrs. Stephens' text messages. Those messages show that watering the plants did cause water to drip from the applicants' balcony to the balconies or patio below.
34. The applicants also provided a picture, and a video of water running down and dripping off their umbrella down to the decks below, on what they say was a dry day. They say this shows the dripping water originated from above them. While I acknowledge this evidence, I find it does not show that applicants were not responsible for the specific June 2023 water nuisances.

35. The applicants also say that HR should have recused themselves from the October 2023 decision to levy the \$200 fine. I turn to the relevant law. SPA section 32(b) concerns council members who have a direct or indirect interest in a matter that is or is to be the subject of consideration by the strata council. If that interest could result in a conflict of interest, that member must disclose fully and promptly the nature and extent of the interest and leave the council meeting where the matter is discussed, unless asked by council to be present to provide information, and while the council votes on the matter.
36. The applicants essentially argue that HR is in a conflict of interest because if the strata fines the applicants, it allows HR to avoid any blame for the water nuisance.
37. I agree that HR has at minimum an indirect interest in this matter. That said, I find it unproven that the strata breached SPA section 32(b) when it levied the fine on October 31, 2023. There is no indication that the applicants told HR or the strata council before that date that they thought HR's air conditioner was the source of the water nuisance. Logically, HR had no reason to suspect their air conditioner was responsible at the time. This is because the initial water nuisance complaints occurred before HR installed the air conditioner and HR's strata lot is above, but not directly above, the applicants' strata lot. The correspondence indicates that the applicants first alleged the air conditioner was faulty in a November 28, 2023 email to the strata. Given this, I find that HR had no conflict of interest to disclose in October 2023.
38. This was not the situation for the November 30, 2023 hearing. I find that by this time the strata council, and HR specifically, knew or reasonably should have known that HR had a direct or indirect interest in the applicants' fine. HR should therefore have left the council meeting, unless asked by council to be present to provide information, and while the council voted on the matter. It is undisputed that HR attended the hearing and there is no indication they were absent for the vote about upholding the fine.

39. The SPA does not mandate a particular remedy for breaches of SPA section 32(b).

I find this provides me some discretion in what I must do. Ordinarily I might order the strata to reverse the fine and reconsider it without HR present. However, I have already found it proven that the applicants breached the bylaws, and that the initial decision to fine the applicants did not breach the SPA. Given these facts, I find the breach was a small or technical one that does not warrant reversing the fine and requiring the strata to make a new decision without HR's involvement.

40. The applicants also say that the strata manager and their managing partner are biased against the applicants. The correspondence shows a less-than-ideal relationship. However, I find it falls short of proving bias. In any event, the strata and not the strata manager decided to levy and uphold the fine.

41. For all those reasons, I dismiss the applicants' claims.

CRT FEES AND EXPENSES

42. 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. I dismiss the applicants' claim for reimbursement of CRT fees. The parties did not claim any specific dispute-related expenses. So, I order none.

ORDER

43. I dismiss the applicants' claims.

David Jiang, Tribunal Member