

Abanilla v. Walia, 2026 BCCRT 1236

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Civil Resolution Tribunal

Date Issued: August 25, 2026

File: SC-2024-012700

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Abanilla v. Walia*, 2026 BCCRT 1236

BETWEEN:

ERNAN ABANILLA

APPLICANT

AND:

NAVNEET KAUR WALIA and SIMONA WALIA

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Alissa Reynolds

INTRODUCTION

1. This small claims dispute is about noise in a strata building. The applicant, Ernan Abanilla, lives in the unit directly below the unit owned by the respondents, Navneet Kaur Walia and Simona Walia. The respondents are sisters and live in the upper unit with other family members. The applicant says the respondents make

excessive noise, which is a nuisance. He seeks \$3,000 in damages, which he raised to \$5,000 in submissions.

2. The respondents say they do not make excessive noise and that the applicant complains about normal sounds associated with living in a strata.
3. Mr. Abanilla represents himself. Navneet Walia represents the respondents.
4. For the following reasons, I dismiss Mr. Abanilla's claims.

JURISDICTION AND PROCEDURE

5. The Civil Resolution Tribunal (CRT) has jurisdiction over small claims brought under section 118 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 apply principles of law and fairness and recognize any relationships between the parties that will likely continue after the dispute. 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.

Credibility issue

6. 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. Mr. Abanilla raises concerns about the respondents' credibility, based on what he alleges are fundamental discrepancies in their evidence. Sometimes credibility issues are a reason to hold an oral hearing. However, for the following reasons, I find there are no credibility issues that warrant an oral hearing for this dispute.
7. First, Mr. Abanilla points to the fact that Simona said an incident happened around 2:30 a.m., while Navneet said it occurred around 2:30 p.m. I find this is simply a typographical error in Navneet's evidence, and the parties actually agree that the incident occurred in the early morning hours. I find nothing turns on that typo.

8. Second, Mr. Abanilla says the respondents fabricated an allegation of “4-5 late night visits,” when he says he only visited their unit 3 times, including in the evening, early morning, and once late at night. In fact, the respondents’ submissions actually say Mr. Abanilla approached the respondents 4-5 times but are silent about when and where. Earlier in submissions the respondents mention late night visits to their unit, but do not say how many. Mr. Abanilla admits he visited the respondents’ unit 3 times and also submitted a video that shows a parking garage interaction.
9. Mr. Abanilla says Navneet’s husband approached him in the parking garage first. However, I find the video clearly shows that Mr. Abanilla was sitting in his vehicle waiting. As Navneet’s husband approached his own vehicle, Mr. Abanilla rolled down his vehicle’s window and started speaking to Navneet’s husband. So, I find Mr. Abanilla did approach the occupants of the respondents’ unit at least 4 times.
10. Finally, Mr. Abanilla says the respondents falsely allege that he stood outside their vehicle recording them. In submissions, Navneet says Mr. Abanilla was standing in front of their vehicle with the video recording on and harassed her husband, making him late for work. Mr. Abanilla says that recording was made with his dashcam while he was sitting inside his vehicle. The video confirms Mr. Abanilla’s account. However, it is clear that Navneet was not present. I find her submissions are based on her interpretation of the video, and the fact that Mr. Abanilla has stood outside the respondents’ door recording with his cellphone camera in the past. I find nothing turns on Navneet’s error in her interpretation of the video evidence and it does not affect the respondents’ reliability or credibility.
11. Further, I have based my decision in this dispute on Mr. Abanilla’s evidence and submissions, and for the reasons set out below, I find he has not proven his claims. So, even if there were material discrepancies in the respondents’ evidence, I would have found Mr. Abanilla did not prove his claims.
12. For all those reasons, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Also, none of the parties requested an oral hearing. 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.

Proper respondents

13. In submissions, Mr. Abanilla referred to two non-parties JSW and JKW as the respondents and owners of the unit above his. The respondents say they are the actual owners of the unit. Mr. Abanilla's submissions allege that the unit's tenants make unreasonable noise. I infer Mr. Abanilla meant to refer to the unit's occupants.
14. While they are not owners, I infer JSW and JKW are also occupants in the respondents' unit. So, I considered whether I should ask the parties for submissions about whether JSW and JKW should be added as respondents. However, as set out below, I find Mr. Abanilla has not proven any of the occupants of the respondents' unit caused a nuisance. So, I find nothing turns on the fact that JSW and JKW are not named respondents.

Claims against the strata

15. In his Dispute Notice, Mr. Abanilla included a request that the CRT enforce the strata's bylaws and compel the respondents' occupants to stop making excessive noise. In submissions, Mr. Abanilla says he has complained to the strata about the noise and the strata did nothing. He says the strata breached its duties under *Strata Property Act* (SPA) section 26. That section requires strata corporations to enforce their bylaws. So, I find Mr. Abanilla seeks an order against the strata corporation.
16. However, Mr. Abanilla brought this claim under the CRT's small claims jurisdiction. Mr. Abanilla's claim for an order against the strata is a claim in respect of the SPA, which falls under the CRT's strata property jurisdiction. I could exercise my discretion to hear this claim under the CRT's strata property jurisdiction. However, Mr. Abanilla did not name the strata corporation as a respondent. So, for all those reasons, I refuse to make the order sought against the strata corporation.

Additional relief sought in submissions

17. In submissions, Mr. Abanilla added several more claims for remedies that are not set out in the Dispute Notice. Generally, it would be procedurally unfair to respondents for the CRT to consider additional claims not set out in the Dispute Notice. Further, even if the respondents had sufficient notice of these additional claims, I would refuse to make the orders sought for the following reasons.
18. First, Mr. Abanilla seeks declaratory orders that the respondents have committed the tort of private nuisance and breached strata bylaws 8.1 and 8.3. Under its small claims jurisdiction, the CRT does not have authority to grant declaratory relief. So, even if Mr. Abanilla had proven a nuisance, I would not grant the declaratory relief.
19. Second, Mr. Abanilla seeks an order compelling the respondents to permanently stop all nuisance-causing activities, and stop harassment, intimidation, or aggression against him. This is a request for injunctive relief, meaning an order requiring someone to do or stop doing something. Under its small claims jurisdiction, the CRT's ability to order injunctive relief is limited to ordering specific performance of an agreement relating to personal property or services under CRTA section 118(1)(c), which does not apply to Mr. Abanilla's claims. So, I find I do not have jurisdiction to make the orders sought. Even if I did, there is no legally recognized tort of harassment in British Columbia.
20. Third, Mr. Abanilla seeks an order compelling the respondents to provide a written retraction to withdraw their false allegations and provide him with a written apology for the harm caused by their allegedly false statements. Again, these are claims for injunctive relief, which I do not have jurisdiction to make. Also, the CRT does not generally order parties to apologize, as forced apologies serve no useful purpose.
21. Fourth, Mr. Abanilla increased his damages claim from \$3,000 to \$5,000. However, Mr. Abanilla did not amend his Dispute Notice. So, even if Mr. Abanilla had proven the respondents caused a nuisance, I would not have considered damages above the amount Mr. Abanilla set out in the Dispute Notice.

Artificial intelligence use

22. In his submissions, Mr. Abanilla refers to several cases, many of which do not exist, or do not say what Mr. Abanilla says they do. Only 3 of the cases he cited say what he says they say. I find Mr. Abanilla obviously relied on artificial intelligence to write his submissions, and the non-existent cases and improper citations are likely “hallucinations,” meaning false or misleading results generated by artificial intelligence. The CRT has no obligation to address arguments with no basis in law. So, I have not addressed those submissions further.

ISSUE

23. Did the respondents cause a nuisance, and if so, what is the remedy?

EVIDENCE AND ANALYSIS

24. In a civil proceeding like this, Mr. Abanilla must prove his claims on a balance of probabilities. This means more likely than not. Both parties provided lengthy submissions with varying degrees of relevancy. I have read all the parties’ submissions and evidence but refer only to that which is necessary for my decision.
25. In particular, Mr. Abanilla complained of two instances of water ingress from above. However, he did not mention those as part of his nuisance claim in his Dispute Notice. Rather, in submissions he relies on them as a history of what he calls the respondents’ intentional interference with his strata lot. The respondents say those issues were resolved. I find Mr. Abanilla’s submissions about water leaks are irrelevant to the matters before me and I decline to comment on them further.
26. Mr. Abanilla says the respondents caused a nuisance by subjecting him to a “relentless barrage of severe, impact-related noise.” The respondents say Mr. Abanilla complains about noise from ordinary living that does not constitute a nuisance. For the following reasons, I find that Mr. Abanilla has not proven that the respondents caused a nuisance.

27. In the strata context, a nuisance is an unreasonable interference with use and enjoyment of a strata lot. See *The Owners, Strata Plan LMS 1162 v. Triple P Enterprises Ltd.*, 2018 BCSC 1502. Whether noise is unreasonable depends on several factors, such as its nature, severity, duration, and frequency. The interference must also be substantial, meaning it is intolerable to an ordinary person when viewed objectively. See *St. Lawrence Cement Inc. v. Barrette*, 2008 SCC 64.
28. Subjective noise complaints will generally not be enough to prove that noise is unreasonable. See the non-binding decision of *McCrossan v. The Owners, Strata Plan NW2847*, 2023 BCCRT 537. Instead, applicants must generally provide objective evidence that the noise is unreasonable to an ordinary person. This could include observations from neutral parties or reports from a qualified expert.
29. Mr. Abanilla says he has provided objective evidence of the noise. First, he relies on decibel readings from a digital sound meter. The respondents say Mr. Abanilla did not provide evidence that the sound meter was independently calibrated, that he has the expertise to operate the digital sound meter, or that he performed the testing under controlled conditions.
30. Mr. Abanilla says the sound meter shows that ambient noise levels in his unit range from 32 to 45 dBA. He says the meter regularly spikes to 89.4 dBA when the respondents make noise, and he recorded a “catastrophic peak” of 98.7 dBA when the respondents dropped a laptop. He notes that is analogous to industrial machinery operating in his dwelling.
31. Mr. Abanilla says he provided evidence that the sound meter was professionally calibrated. However, he actually provided certificates dated between 2005 and 2016, showing the sound meter complies with the European Union’s Low Voltage Directive, EMC Directive, and Restrictions of Hazardous Substances Directive. I find Mr. Abanilla provided no evidence that the sound meter was properly calibrated.
32. Mr. Abanilla had a previous CRT dispute, *Abanilla v. The Owners, Strata Plan LMS 739*, 2021 BCCRT 1292. That dispute was against his strata corporation over noise

created by the upper unit's former owners, not the respondents. A former vice chair put little weight on Mr. Abanilla's decibel readings, noting Mr. Abanilla failed to establish that he had the expertise to conduct noise tests. He also failed to establish the testing equipment he used was properly calibrated. While not binding on me, I find this reasoning is persuasive and directly applicable, and I apply it here.

33. Mr. Abanilla is particularly concerned with noise during what he calls the strata's "quiet hours," and when he is sleeping. The World Health Organization's "Guidelines for Community Noise" have been relied upon by the court and previous CRT decisions as a source on objective standards for noise. See *Suzuki v. Munroe*, 2009 BCSC 1403, and *Palmer v. The Owners, Strata Plan VR2265*, 2023 BCCRT 792. The guidelines say continuous noise should not exceed 30 dBA for sleeping. However, Mr. Abanilla's own sound readings show ambient noise above that level.
34. Further, Mr. Abanilla provided audio recordings of the respondents closing doors, which he says disturbed his sleep. From the recordings, it is difficult to determine the volume of the noise. What is notable is that a continuous clock ticking is audible in the recording, and the sound of the door closing is audible at about the same or slightly louder volume as the clock ticking. So, I find the WHO guidelines and audio recordings show Mr. Abanilla's sound meter readings are likely inaccurate.
35. Mr. Abanilla also provided a witness statement from a colleague, JR. Mr. Abanilla says it is objective evidence showing that the noise was excessive and provoked Mr. Abanilla to lose his composure at work. However, the statement is from 2021, and Mr. Abanilla admits the noise related to his previous CRT dispute. The statement also does not say that JR heard the noise. Rather, JR said Mr. Abanilla berated him on April 15, 2021, which was out of character. I find the statement is not objective evidence that the respondents caused unreasonable noise.
36. Mr. Abanilla also provided videos of him banging on the respondents' door and loudly complaining about a noise that woke him up. The male occupant of the respondents' unit said he accidentally dropped a laptop and apologized. I find that the noise caused by a one-time accidental dropping of a laptop does not constitute

a legal nuisance. Further, Mr. Abanilla's loud disruption was a disproportionate response and likely caused more of a disturbance to the strata's residents.

37. Mr. Abanilla also provided medical records and recordings of his appointments with doctors and counsellors. This evidence indicates that Mr. Abanilla struggles with anxiety and sleep deprivation, although it does not prove those conditions are related to the respondents' alleged noise. While I accept that the noise is subjectively unacceptable to Mr. Abanilla, I find the medical evidence does not assist him in establishing that the noise is a nuisance.
38. Mr. Abanilla did not provide any objective evidence that the noise is unreasonable to an ordinary person, such as observations from neutral parties or reports from a qualified expert. So, I find Mr. Abanilla has not proven the respondents caused a nuisance and I dismiss his claims.

Fees and Expenses

39. Under CRTA section 49 and 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. The respondents did not pay CRT fees and did not claim dispute-related expenses. I dismiss Mr. Abanilla's claims for CRT fees and expenses.

ORDERS

40. I dismiss Mr. Abanilla's claims.

Alissa Reynolds, Tribunal Member