Fleming v. The Owners, Strata Plan LMS 4383, 2026 BCCRT 1266

Civil Resolution Tribunal

Date Issued: August 31, 2026

File: ST-2024-013889

Type: Strata

Civil Resolution Tribunal

Indexed as: *Fleming v. The Owners, Strata Plan LMS 4383*, 2026 BCCRT 1266

B E T W E E N :

JESSE FLEMING and ALEXANDER DEMOSTEN

APPLICANTS

A N D :

The Owners, Strata Plan LMS 4383

RESPONDENT

REASONS FOR DECISION

Tribunal Member:	Max Pappin

INTRODUCTION

1. The applicants, Jesse Fleming and Alexander Demosten, are former tenants of strata lot 67 (SL67) in the respondent strata corporation, The Owners, Strata Plan LMS 4383. The applicants say that the strata improperly fined them $1,800 for violating the strata's noise bylaw and for incidents of theft involving the applicants'

guest. They ask that the strata reverse the fines and reimburse them approximately $1,500 for a chargeback and fines that they already paid.

2. The strata disagrees with the applicants' claim. It says the fines were fair and justified.

3. Mr. Fleming represents the applicants. A strata council member represents the strata.

4. For the following reasons, I partially allow the applicants' claim.

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.

Claims not in Dispute Notice

8. In additional submissions that I requested, the applicants ask that I order the strata to produce correspondence between the strata council and the strata manager about the alleged thefts, council meeting minutes, surveillance recordings, written complaints the strata received, each written notice of the fines imposed, and an invoice for mailbox repairs. However, these requests were not raised in the applicants' Dispute Notice.

9. The purpose of the Dispute Notice is to define the issues and provide fair notice to the other parties of the claims against them. CRT rule 5.1(1) allows applicants to request amendments to a Dispute Notice. However, rule 5.1(3) says the CRT will not allow amendments during the CRT's decision state except in extraordinary circumstances. There are no extraordinary circumstances that would justify amending the applicants' Dispute Notice. So, I have not considered these additional requests in my decision.

Use of artificial intelligence

10. In their additional submissions, the applicants refer to several cases which do not exist. I find these 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. While I have reviewed all of the applicants' submissions, I have only addressed what is relevant in my decision.

ISSUES

11. The issues in this dispute are:

    a. Whether the applicants' claim for reimbursement of the chargeback is out of time.

    b. If not, whether the applicants are entitled to reimbursement of the chargeback.

c. Whether the strata must reverse the bylaw fines and reimburse the applicants for fines already paid.

d. Whether the strata treated the applicants significantly unfairly.

EVIDENCE AND ANALYSIS

12. In this civil proceeding, the applicants must prove their claim 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

13. The strata was created in March 2001. It consists of 344 strata lots in 2 towers. The strata filed bylaw amendments at the Land Title Office between 2002 and 2024. I find the 2011 bylaw amendments apply to this dispute.

14. Bylaw 4.1 says that an owner, tenant, or visitor must not use a strata lot, the common property or common assets in a way that causes a nuisance or hazard to another person, unreasonably interferes with the rights of other persons to use and enjoy the common property, is illegal, or is contrary to the purpose for which the strata lot or common property is intended as shown on or by the strata plan. Bylaw 27.1 says the strata may impose a $200 fine for any breach of its bylaws or rules.

15. The applicants rented SL67 from February 2022 to April 30, 2025. In submissions, the strata says that the applicants' visitor, B, was responsible for more than 30 thefts in the building during that time. The strata provided a ledger, which shows that between March 13, 2023, and April 16, 2025, it fined the applicants a total of $2,050 for B's alleged thefts.

16. I note that the $2,050 in fines is more than the $1,800 specified in the Dispute Notice. The applicants applied for dispute resolution on January 8, 2025, when only $1,650 in fines had been applied to SL67's strata account. I find I may fairly decide the amounts that appeared on the ledger before January 8, 2025. I also briefly

mention that a December 13, 2024 letter indicates that the strata considered levying a $150 fine against the applicants for a noise violation. However, no such fine appears in the ledger, so I infer the strata did not impose this fine.

17. The applicants ask that I order the strata to reverse the bylaw fines. They also request that the strata reimburse them more than $1,500 in fines already paid. However, in submissions, the parties clarify that the applicants only paid $450 in fines and paid a further $1,080 chargeback for damage to the strata's mailboxes. The parties agree that the applicants paid the chargeback in July 2022. I infer the applicants seek reimbursement of the paid fines and the chargeback.

Is the applicants' claim for reimbursement of the chargeback out of time?

18. CRTA section 13 says the *Limitation Act* applies to the CRT. The *Limitation Act* creates a 2-year limitation period for most claims. *Limitation Act* section 8 says the limitation period starts running when a person discovers their claim. A person discovers a claim when they know, or reasonably should know, that another person caused them to incur a loss, and that a legal proceeding, such as the CRT dispute process, would be a suitable way to remedy the loss. If the time limit expires, the right to bring the claim disappears and the claim must be dismissed, even if the claim would otherwise have been successful.

19. As I mentioned, the applicants filed their application for CRT dispute resolution on January 8, 2025. So, if they discovered their claim for reimbursement of the chargeback before January 8, 2023, their claim is out of time under the *Limitation Act*. The parties did not specifically address the *Limitation Act* in their submissions, so I requested additional submissions from them about the *Limitation Act's* applicability. Both parties provided additional submissions.

20. The strata's evidence shows that the applicants paid the $1,080 chargeback in 2 installments on July 8 and 11, 2022. The applicants argue that they only discovered their claim for reimbursement in late 2023 and 2024. They say that they paid the chargeback and only later considered that the amount charged back to them "may… have been made without a documented cost basis". I find nothing turns on

this argument. The applicants undisputedly paid the chargeback in July 2022. At that point, they knew they had suffered a financial loss.

21. I find the applicants discovered their claim for reimbursement of the chargeback on July 8 and 11, 2022, when they paid it. So, I find the 2-year limitation period expired on July 8 and 11, 2024. Since the applicants started this dispute on January 8, 2025, I find their claim is barred under the *Limitation Act*, and I dismiss it.

Must the strata reverse the bylaw fines and reimburse the applicants for fines already paid?

22. The strata's ledger shows that between March 13, 2023, and January 8, 2025, the strata applied the following fines to SL67's strata account:

    a. $250 on March 13, 2023,

    b. $200 on April 13, 2023,

    c. $200 on May 28, 2024,

    d. $200 on September 3, 2024,

    e. $200 on October 8, 2024,

    f. $200 on October 28, 2024, and

    g. $400 on December 6, 2024.

23. The ledger also shows that on March 20, 2024, the applicants paid $450 towards the March 13 and April 13, 2023 fines. The applicants did not pay the remaining fines.

24. For the strata's fines to be valid, the strata must first comply with the procedural steps set out in SPA section 135. SPA section 135 says that a strata corporation cannot impose a fine unless the strata gives the tenant details of the complaint in writing, provides a reasonable opportunity for the tenant to answer the complaint, including by holding a hearing if requested, and gives notice of the complaint to the

tenant's landlord. Once the strata has decided to issue a fine, it must, as soon as feasible, give written notice of the fine.

25. The SPA section 135 procedural requirements are strict, with no leeway. If the strata corporation does not follow them, I can find that the 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.

26. SPA section 135 requires the strata to provide a reasonable opportunity for a tenant to respond to each complaint before it imposes a fine. The CRT has previously said that, in practice, this requires a 2-letter process for each bylaw contravention. The first letter must give the details of each complaint. Only after giving the tenant a reasonable opportunity to respond, including a hearing if the tenant requests one, can the strata send a second letter imposing a fine. See *Horvath v. The Owners, Strata Plan 1773*, 2022 BCCRT 852 at paragraph 48, and *Kong v. The Owners, Strata Plan VAS2853*, 2026 BCCRT 699 at paragraph 49.

27. Neither party provided submissions about whether the strata complied with SPA section 135's procedural requirements before imposing the bylaw fines. So, through CRT staff, I asked the parties for additional submissions about whether the strata complied with SPA section 135. Both parties provided additional submissions.

March 13, 2023 fines

28. I start by addressing the March 13, 2023 fines. Prior to levying the fines, the strata manager sent the applicants a letter on February 15, 2023. The letter says that on February 2, 2023, the strata received a complaint that B stole a package belonging to a resident. The strata manager noted that this contravened bylaw 4.1. The letter also included an image showing an individual at the strata's mailboxes.

29. In the same letter, the strata manager also said that B had improperly brought a bicycle through the main lobby. They noted the strata's rule 6(n) says no bikes may be ridden or brought through main lobbies or hallways of the strata.

30. On March 13, 2023, the strata manager sent the applicants another letter notifying them that the strata had decided to impose a $200 fine for B’s contravention of bylaw 4.1 and a $50 fine for the contravention of rule 6(n).

31. I find the strata followed the SPA section 135 procedural requirements before levying the March 13, 2023 fines. The February 15, 2023 letter contained details of the complaints and noted that fines were possible. The strata provided the applicants with 14 days to respond to the complaints, which I find was reasonable. The applicants do not argue that the strata failed to notify them about the fines as soon as feasible.

32. In submissions, the applicants argue that the strata issued the fines without supporting evidence of the alleged violations and denied their requests to view video footage of the alleged thefts. They also say that, when the strata did provide photos, the individuals were unrecognizable

33. In *The Owners, Strata Plan LMS 3259 v. Sze Hang Holding Inc.*, 2016 BCSC 32, the court said that when a strata sends a warning about a bylaw violation to an owner, the owner must either correct the contravention or challenge the bylaw violation notice. In *The Owners, Strata Plan K603 v. Bakajic*, 2022 BCCRT 825, a tribunal member interpreted this to mean that if an owner wants to dispute a complaint against them, they have a positive obligation to respond to the strata when they receive notice of a complaint. The tribunal member reasoned that failing to dispute a complaint deprives the strata of the opportunity to further investigate, because there is no reason to investigate an undisputed allegation. She found that a strata is entitled to rely solely on a complaint to impose a fine when the owner does not challenge the complaint. I agree with this reasoning and apply it here.

34. In its February 15, 2023 letter, the strata noted that the applicants had 2 weeks to respond to the complaints made about B or request a hearing. In its March 13, 2023 letter imposing the fine, the strata said that it did not receive any correspondence from the applicants disputing the complaints or requesting a hearing.

35. The applicants provided no evidence, such as emails or text messages, to show that they contacted the strata manager within 2 weeks of February 15, 2023, or at any point before 2024. So, I find the strata was entitled to rely on the unchallenged complaints when it decided to impose the March 13, 2023 fines.

36. The applicants provided no contrary evidence which suggests that B did not breach the strata's bylaws or rules. They could have, for example, provided a statement from B refuting the complaints made against them, but did not do so.

37. Based on the above, I find B contravened bylaw 4.1 on February 2, 2023, by stealing a resident's package from the common property mailbox area, which was illegal. I also find B contravened strata rule 6(n) by bringing their bicycle through the main lobby.

38. SPA section 130(2) says the strata may fine a tenant if that tenant, a person visiting the tenant, or an occupant who is not a subtenant, breaches a bylaw or rule. In reply submissions, the applicants say that B "was never a guest". However, in a July 11, 2024 email to the strata manager, Mr. Demosten noted that Mr. Fleming is "too emotionally invested and can't say no" to letting B in. So, I find it likely that the applicants permitted B to enter the building, and that B was the applicants' visitor. So, I find the strata validly fined the applicants for B's contraventions.

Remaining fines

39. On April 13, 2023, the strata manager sent the applicants a letter about a complaint that B stole a package on April 3, 2023, in contravention of bylaw 4.1. The letter says, "As this has been a routine problem, the Strata Corporation decided to apply a new fine of $200".

40. The strata's evidence shows that the strata manager sent similar letters on May 14, July 11, and July 18, 2024, for other complaints of theft that occurred between May 9 and July 12, 2024. The ledger shows that the strata applied the May 14, 2024 fine to SL67's strata account on May 28, 2024. The July 11, 2024 fine was applied on December 6, 2024. The July 18, 2024 fine was applied on October 8, 2024.

41. Notably, in its March 13, 2023 letter imposing the first bylaw 4.1 fine, the strata said that it would continue to fine the applicants until it stopped receiving complaints of thefts. In the letter, the strata referred to bylaw 28.1, which says that if an activity or lack of activity that constitutes a contravention continues, without interruption, for longer than 7 days, a fine may be imposed every 7 days.

42. SPA section 135(3) says that once a strata has complied with sections 135(1) and (2), it may impose a fine for a continuing contravention without further compliance with section 135. In its additional submissions, the strata argues that B's alleged thefts were a continuing contravention. It says that under SPA section 135(3), it did not need to repeat the notice and response process before levying each fine. I disagree. I find that each alleged theft was a discrete act and not a single uninterrupted activity. So, I find the alleged thefts were not a continuing contravention.

43. This means that for each alleged breach of bylaw 4.1, the strata was required to comply with SPA section 135. I find the strata was required to notify the applicants about each alleged breach and give them an opportunity to respond or request a hearing. After waiting a reasonable amount of time, the strata could then issue each fine.

44. In the above-mentioned instances, the strata simply informed the applicants about the complaints against B and imposed the fines at the same time. It did not provide the applicants an opportunity to respond to the complaints before imposing the fines. I find the strata did not comply with SPA section 135's strict procedure before levying these fines.

45. The strata provided no documentary evidence about the remaining fines it applied to SL67's strata account on September 3, October 28, and December 6, 2024. As the party that imposed the fines, the strata bears the burden of proving that it complied with SPA section 135. I find it has not done so here. So, I find the strata did not comply with SPA section 135 when it imposed these remaining fines.

46. Based on the above, I find that the $1,400 in fines levied between April 13, 2023, and December 6, 2024, are invalid. I find the applicants are entitled to reimbursement of $200 for the April 13, 2023 fine that they paid. I also find the strata must reverse the remaining $1,200 in fines from SL67's strata account.

Did the strata treat the applicants significantly unfairly?

47. In submissions, the applicants allege that the strata acted significantly unfairly when it levied the bylaw fines.

48. Under CRTA section 123(2), the CRT has jurisdiction to make an order against a strata corporation to remedy a significantly unfair action or decision. In *Kunzler v. The Owners, Strata Plan EPS 1433*, 2021 BCCA 173, the court confirmed that significantly unfair actions or decisions are those that are burdensome, harsh, wrongful, lacking in probity and fair dealing, done in bad faith, unjust, or inequitable. In applying this test, an owner's objectively reasonable expectations are a relevant factor but are not determinative.

49. In *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44, the Court of Appeal established the reasonable expectation test, as follows:

    a. What was the owner's expectation?

    b. Was that expectation objectively reasonable?

    c. Did the strata violate that expectation with a significantly unfair action or decision?

50. The applicants say that the strata's decision to fine them was "based on a conflict of interest" and "driven by a personal relationship" between the strata manager and Mr. Fleming's ex-partner. I infer the applicants argue that they expected the strata to act reasonably and impartially when levying fines. I find this expectation was objectively reasonable. However, other than their bare assertion, the applicants provided no evidence suggesting that the strata failed to do so.

51. None of the emails in evidence indicate that there was any conflict between the applicants and the strata manager. The strata provided the applicants with a reasonable amount of time to respond to the complaints described in the February 15, 2023 letter. The applicants did not respond to that complaint, so the strata was entitled to fine the applicants based on the undisputed allegation.

52. Based on the above, I find the applicants have not proven that the strata acted unreasonably or improperly when it imposed the March 13, 2023 fines. So, I find the applicants have not proven that the strata treated them significantly unfairly. I dismiss the applicants' claim for reimbursement of $250 paid towards the March 13, 2023 fines.

CRT FEES, EXPENSES AND INTEREST

53. 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. The applicants were mostly successful, so I find they are entitled to reimbursement of $125 in CRT fees. Neither party claimed dispute-related expenses.

54. The *Court Order Interest Act* applies to the CRT. However, the applicants explicitly waived their right to pre-judgment interest in the Dispute Notice, so I do not award any.

ORDERS

55. I order the strata to immediately reverse $1,200 in fines applied to SL67's strata account from May 28, 2024 to December 6, 2024.

56. Within 30 days of the date of this decision, I order the strata to pay the applicants a total of $325, broken down as follows:

    a. $200 for reimbursement of the April 13, 2023 fine, and

    b. $125 for CRT fees.

57. I dismiss the applicants' remaining claims.

58. The applicants are entitled to post-judgment interest under the *Court Order Interest Act*, as applicable.

59. 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 in which it is filed.

Max Pappin, Tribunal Member