



# Civil Resolution Tribunal

Date Issued: September 1, 2020

File: ST-2020-000804

Type: Strata

Civil Resolution Tribunal

Indexed as: *Sorokin v. The Owners, Strata Plan NW578*, 2020 BCCRT 971

**B E T W E E N :**

NIKOLAY SOROKIN

**APPLICANT**

**A N D :**

The Owners, Strata Plan NW578

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Kate Campbell, Vice Chair

## INTRODUCTION

1. This dispute is about a charge for repairs in a strata corporation.
2. The applicant, Nikolay Sorokin, co-owns a strata lot (unit 804) in the respondent strata corporation, The Owners, Strata Plan NW578 (strata). He says the strata

misrepresented a dripping water valve as an emergency, and hired an expensive restoration contractor, Platinum Pro-Claim (Platinum) to perform work without contacting him first. Mr. Sorokin says Platinum's work was incompetent, and its invoices were inflated.

3. Mr. Sorokin says the strata imposed chargebacks on his strata lot account totalling \$4,327.75 for Platinum's work and for plumbing valve repairs. The evidence indicates he paid this amount "in trust", pending the outcome of this dispute. He requests reimbursement of \$4,327.75.
4. The strata says the leak from Mr. Sorokin's unit 804 caused water to enter neighbouring unit 805. It says Platinum's work was necessary to minimize damage and to ensure unit 805 remained habitable. It says the emergency service and plumbing charges were reasonable in the circumstances, and Mr. Sorokin is not entitled to reimbursement.
5. Mr. Sorokin is self-represented in this dispute. The strata is represented by a strata council member.
6. For the reasons set out below, I find Mr. Sorokin was required under the strata's bylaws to pay for the emergency services and plumbing repairs. I therefore dismiss his claims.

## **JURISDICTION AND PROCEDURE**

7. 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.
8. The CRT has discretion to decide the format of the hearing, including in writing, by telephone, videoconference, or a combination of these. I am satisfied an oral

hearing is not required as I can fairly decide the dispute based on the evidence and submissions provided.

9. The CRT may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in court. The CRT may also ask the parties and witnesses questions and inform itself in any way it considers appropriate.
10. Under section 123 of the CRTA and the CRT rules, 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**

11. The issues in this dispute are:

- a. Is the plumbing valve part of Mr. Sorokin's strata lot?
- b. Must the strata reverse the chargebacks to Mr. Sorokin's strata lot account for emergency services?
- c. Must the strata reverse the chargebacks for plumbing repairs?

## **EVIDENCE AND ANALYSIS**

12. I have read all the evidence provided but refer only to evidence I find relevant to provide context for my decision. In a civil proceeding like this one, the applicant must prove their claims on a balance of probabilities.
13. The strata was created in 1976, and consists of 93 townhouse-style strata lots. Mr. Sorokin's unit 804 shares a building with 3 other strata lots. There is another strata lot on either side of unit 804.
14. The strata says, and Mr. Sorokin does not dispute, that the unit 805 owner reported a water leak on June 14, 2019. The unit 805 owner called Artisan Plumbing and Heating (Artisan). The strata then called Platinum to perform emergency services.

15. The strata filed new bylaws at the Land Title Office in December 2001, which repeated and replaced all previous bylaws. The strata filed various amendments at the LTO after 2001. Of these, I find only the amendments filed in December 2017 are relevant to this dispute. I discuss the applicable bylaws in my reasons below.

***Is the plumbing valve part of Mr. Sorokin's strata lot?***

16. The parties agree that a water pressure reducing valve (PRV) located inside unit 804 was leaking in June 2019. I agree, as this is confirmed by Artisan's June 2019 invoice.
17. The strata says the PRV is part of Mr. Sorokin's strata lot, and he is therefore liable for the repair and emergency service costs related to the leak. Mr. Sorokin says the PRV is common property, as it is connected to the strata's common water supply lines.
18. According to a June 23, 2019 letter from Mr. Sorokin to the strata, the PRV is located on the ground floor of unit 804. Other evidence shows that it is accessed through a panel next to Mr. Sorokin's hot water heater, and is located in a space under his townhouse's interior stairs.
19. Mr. Sorokin says he is not responsible to repair the PRV because it was an original fixture installed by the builder. I do not agree. Whether an item is an original fixture is not determinative of whether the strata is responsible to maintain and repair it.
20. Mr. Sorokin also says the strata is responsible for the PRV because it is part of the water supply, and regulates the water pressure. This question is governed by section 1(1) of the *Strata Property Act*. Section 1(1) says, in part, that "common property" means pipes and other facilities for the passage of water located wholly within a strata lot, if they are capable of being and intended to be used in connection with the enjoyment of another strata lot or the common property.
21. In this case, I find the PRV is located wholly within Mr. Sorokin's strata lot, as discussed above. I note that Mr. Sorokin bears the burden of proof in this dispute. I find the evidence before me does not establish that the unit 804 PRV is capable of

or intended to be used in connection with the enjoyment of another strata lot or common property. While I accept that the water pipes in unit 804 are likely connected to pipes in other strata lots, there is no evidence that the PRV performs any function outside of unit 804. I therefore find the PRV is part of the strata lot.

22. As stated in bylaw 3.1, an owner must repair and maintain their strata lot, except for repairs and maintenance that are the strata's responsibility under the bylaws. The strata's repair and maintenance obligations are set out in bylaw 9.1(d). That bylaw says the only parts of a strata lot the strata must repair and maintain are the structure of a building, the exterior of a building, chimneys and other things attached to a building's exterior, and fences and similar structures that enclose yards. The PRV does not fit within any of these categories, so I find it was Mr. Sorokin's responsibility to repair and maintain.
23. Mr. Sorokin cites bylaw 9.4, which says the strata must obtain at least 3 quotations for the cost of service, maintenance or repairs to common property in excess of \$1,000, unless there are reasonable grounds to believe an immediate expenditure is necessary to ensure safety or prevent significant loss or damage. He says the strata breached this bylaw by failing to obtain quotations for the work.
24. I find bylaw 9.4 does not apply to this dispute, since there is no evidence of any repairs to common property.

### ***Chargeback for Emergency Services***

25. The invoices in evidence show the strata charged back \$3,845.80 to Mr. Sorokin's strata lot account for Platinum's emergency response work. Mr. Sorokin says the strata should not have charged back any amount, for the following reasons:
- He was home at the time of the leak, let the Artisan employee in, and the leaking valve was quickly shut off and then replaced.
  - The leak was minor, with no visible water damage, and required no restoration.

- Platinum's invoice was inflated, and its methods and equipment were ineffective.
- The weather at the time was dry, with little humidity, so drying would have occurred naturally.

26. Platinum's invoice and accompanying documents show that it charged for general demolition, hazardous material remediation, and water extraction and remediation. Mr. Sorokin says these actions were largely unnecessary, and that in any event, Platinum did not do a good job in performing them. He provided his own opinion about the extent of the water damage, and the steps that ought to have been taken to dry the water and fix any damage.
27. Based on the photographs and other evidence before me, I accept that the water damage in this case was minimal. However, the photos show that there was water in both unit 804 and 805, including on the unit 805 floor. Platinum's report indicates that there was also water or dampness in the walls. While this is not visible in the photos, based on the fact of the leak and lack of contrary evidence, I accept that there was water and dampness in unit 805. In making this finding, I note that the unit 804 PRV leak was discovered because the unit 805 owner noticed water in his unit and asked the contractor to check unit 804.
28. Since there was water present in a neighbouring strata lot, I find it was reasonable in the circumstances for the strata to hire Platinum. I am not persuaded by Mr. Sorokin's opinion about Platinum's competence or effectiveness, or his opinions about what steps should have been taken to deal with the water. There is no suggestion in the evidence before me that Mr. Sorokin is an expert in construction, building technology, or water damage restoration. He also provided no opinion from a qualified expert to support his assertions about Platinum's work or charges. While Mr. Sorokin provided copies of some articles about subjects such as water molecule dispersion, and some Wikipedia links about diffusion, I place no weight on these because they were not based on the specific circumstances of the leak at issue in

this dispute. In particular, there is no analysis of the volume of the water leak, how it travelled between strata lots, and what parts of unit 805 were affected by water.

29. Even if there were less expensive ways of dealing with the June 2019 water leak, I find it was reasonable for the strata's property manager to call Platinum, given the presence of water in unit 805.
30. Based on strata bylaw 4.5, I find Mr. Sorokin is liable for the \$3,845.80 chargeback for Platinum's work.
31. Bylaw 4.5, as amended in December 2017, says in part that an owner must indemnify and "save harmless" the strata from the expense of any loss, damage or expense arising from the owner's strata lot or any adjoining strata lot where such loss, damage or expense arises from parts of a strata lot the owner is required to repair and maintain under the bylaws, minus any insurance coverage. Bylaw 4.5 also says that any damage requiring repair that is under the strata's insurance deductible is an expense chargeable to the owner, due and payable on the date of the monthly assessment.
32. Based on the evidence before me, I find the amounts covered by Platinum's invoice are for loss, damage, or expense arising from the unit 804 PRV. As explained above, I have found that the PRV is part of Mr. Sorokin's strata lot, and he is required to repair and maintain it under the bylaws.
33. I note that wording of bylaw 4.5 after the December 2017 amendment does not require the strata to prove any omission, act, negligence, or carelessness giving rise to the damage. This is in contrast to the previous version of bylaw 4.5.
34. For these reasons, I find Mr. Sorokin is liable for the \$3,845.80 chargeback for Platinum's invoice. Mr. Sorokin provided documentation showing that he already paid this amount, subject to the outcome of this dispute. I therefore dismiss his claim to have the \$3,845.80 chargeback reversed.

### ***Chargeback for Plumbing***

35. In addition to Platinum's invoices, the strata charged back \$481.95 to Mr. Sorokin's strata lot account for Artisan's work on the unit 804 PRV. This amount is made up of 2 invoices. The first invoice is for \$374.85, for identifying the leak and replacing the PRV on June 14, 2019. The second invoice is for \$107.10, for a second callout on August 15, 2019 due to continued leaking.
36. I find Mr. Sorokin is liable under bylaw 4.5 for Artisan's first invoice. For the same reasons as for Platinum's invoice, I find that tracing and repairing the leak is an expense arising from parts of Mr. Sorokin's strata lot he is required to repair and maintain under the bylaws
37. Mr. Sorokin says the PRV began leaking again around August 9, 2019. I accept that evidence, based on the photo he provided. While I accept that it was frustrating for Mr. Sorokin that the PRV leaked again in August 2019, I find he is still liable to pay for Artisan's June 14, 2019 work. This cost was reasonable in the circumstances, given the situation of the leak. Also, there is no evidence before me about why the PRV leaked a second time. Therefore, any finding that Artisan's work was faulty or negligent would be speculative.
38. I also find Mr. Sorokin is liable for Artisan's second invoice for \$107.10. This invoice is for work performed on August 15, 2019. According to the invoice, Artisan was called for continued leaking after PRV replacement, but found no leak present. The invoice also says Artisan would provide a quote for isolation valve replacement, but there is no information about that before me.
39. Mr. Sorokin relies on some prior CRT decisions that have held that plumbing leak investigations cannot be charged back under bylaws that allow chargebacks for "maintenance, repair, or replacement" expenses: see *Robertson v. The Owners, Strata Plan NW 87*, 2017 BCCRT 37 and *The Owners, Strata Plan LMS 3824 v. Kulak*, 2020 BCCRT 427.



40. Prior CRT decisions are not binding, although they may provide useful guidance. I find that both *Robertson* and *Kulak* can be distinguished from the facts before me, because the bylaw language in those cases was not similar to bylaw 4.5 in this dispute. In both *Robertson* and *Kulak*, the applicable bylaws said an owner must pay for “maintenance, repair or replacement” expenses. That is different from bylaw 4.5. Bylaw 4.5 says an owner must indemnify the owner for, among other things, “any loss, damage, or expense arising from the owner’s strata lot”. This is broader, as it includes “any expense”.
41. Mr. Sorokin also cites *The Owners, Strata Plan NW 1961 v. Yan Yi Sun*, 2019 BCCRT 1120. However, I find that case is not similar to this one, as the strata corporation in that dispute had no chargeback bylaw. I therefore find the reasoning in *Yan Yi Sun* does not apply here.
42. The evidence before me indicates that Mr. Sorokin agreed to have Artisan come back to his home on August 15, 2019. While this is not determinative, I find it supports the conclusion that he is liable for the invoice.
43. For all of these reasons, I find Mr. Sorokin is liable for both of Artisan’s invoices under bylaw 4.5. The evidence indicates that he has already paid the chargebacks. I therefore dismiss his claim to have the \$481.95 chargeback reimbursed.

## **CRT FEES AND EXPENSES**

44. Mr. Sorokin was unsuccessful in this dispute. In accordance with the CRTA and the CRT rules I find he is not entitled to reimbursement of CRT fees or dispute-related expenses. The strata did not pay CRT fees, and did not claim dispute-related expenses, so I order none.
45. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses to Mr. Sorokin.

## **ORDER**

46. I dismiss Mr. Sorokin's claims, and this dispute.

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Kate Campbell, Vice Chair