
The Case of the Failed Fines

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A recent Civil Resolution Tribunal (the “CRT”) decision clarified an important matter regarding the charging and collection of fines.

In the case of *Price v. Residential Section of BCS 1437*¹, Mr. Price had provided the Residential Section of the strata corporation with a Form K setting out the name of Mr. Price’s tenant. Subsequently, the strata manager sent various notifications to Mr. Price regarding alleged breaches of the strata corporation’s bylaws by Mr. Price’s tenant.

The complaint letters invited Mr. Price to respond to the complaints. Additionally, the complaint letters noted that the tenants were copied on the letters as a courtesy and that they could give their perspective on the breaches by contacting the landlord to speak on their behalf.

Ultimately, fines were levied against Mr. Price in relation to the complaint letters.

Mr. Price challenged the validity of the fines.

The CRT considered section 130 of the *Strata Property Act* (the “Act”) which sets out who may be fined for a breach of the bylaws.

Fines

- 130** (1) The strata corporation may fine an owner if a bylaw or rule is contravened by
- (a) the owner,
 - (b) a person who is visiting the owner or was admitted to the premises by the owner for social, business or family reasons or any other reason, or
 - (c) an occupant, if the strata lot is not rented by the owner to a tenant.
- (2) The strata corporation may fine a tenant if a bylaw or rule is contravened by
- (a) the tenant,
 - (b) a person who is visiting the tenant or was admitted to the premises by the tenant for social, business or family reasons or any other reason, or
 - (c) an occupant, if the strata lot is not sublet by the tenant to a subtenant.

¹ *Price v. Residential Section of The Owners, Strata Plan BCS 1437, 2019 BCCRT 517*

The CRT noted that section 130 (2) of the Act specifically provides that a strata corporation may fine a tenant when a tenant is in breach of a bylaw.

The CRT then considered section 135 of the Act which, among other things, sets out who must receive notice of the complaint.

Complaint, right to answer and notice of decision

- 135** (1) The strata corporation must not
- (a) impose a fine against a person,
 - ...
 - for a contravention of a bylaw or rule unless the strata corporation has
 - ...
 - (e) given the owner or tenant the particulars of the complaint, in writing, and a reasonable opportunity to answer the complaint, including a hearing if requested by the owner or tenant, and
 - (f) if the person is a tenant, given notice in writing of a decision on a matter referred to in subsection (1) (a), (b) or (c) to the persons referred to in subsection (1) (e) and (f).

The CRT found that the Residential Section failed to provide the tenant with an opportunity to respond to the complaint including requesting a hearing.

The CRT concluded that the Residential Section failed to comply with sections 130 and 135 of the Act. As a consequence, the CRT ordered that all fines against Mr. Price be cancelled.

Many strata councils will likely find this decision both surprising and concerning as many strata councils and strata managers are of the view that a strata council is not required to deal with a tenant. Clearly, such a view is contrary to the bylaw enforcement provisions of the Act.

Additionally, strata council should be aware of section 34.1 of the Act.

Request for a council hearing

- 34.1** (1) By application in writing stating the reason for the request, an owner or tenant may request a hearing at a council meeting.
- (2) If a hearing is requested under subsection (1), the council must hold a council meeting to hear the applicant within 4 weeks after the request.
- (3) If the purpose of the hearing is to seek a decision of the council, the council must give the applicant a written decision within one week after the hearing.

Section 34.1 of the Act permits a tenant to request a hearing. Thus, a tenant may request a hearing for any reason and not solely in response to the notification of a bylaw complaint.

In view of the *Price* decision, a strata council should ensure that the strata corporation has received Form K's from every rented strata lot so that the strata corporation knows the name of the tenant. When there is a complaint of a bylaw breach, the strata council should then ensure that the proper parties are notified when sending complaint letters. The strata council must also ensure that it complies with section 135(f) of the Act by copying the owner of the strata lot where a tenant has allegedly breached a bylaw.

Strata councils that have recently fined owners for breaches of a bylaw by a tenant may wish to obtain legal advice to determine whether it is possible to reverse the fines and initiate the bylaw enforcement process using the proper procedure.