IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Johnson v. British Columbia (Civil Resolution Tribunal),* 2026 BCSC 823

Date: 20260505
Docket: S252888
Registry: New Westminster

Between:

Denise Johnson

Petitioner

And

Civil Resolution Tribunal and The Owners Strata Plan LMS 1685

Respondents

Before: The Honourable Justice Lamb

On judicial review from: An order of the Civil Resolution Tribunal, dated January 16, 2024

Reasons for Judgment

The Petitioner appearing on own behalf:	D. Johnson
Counsel for The Owners Strata Plan LMS 1685:	M. Li
Place and Date of Hearing:	New Westminster, B.C. December 10, 2025
Place and Date of Judgment:	New Westminster, B.C. May 5, 2026

Introduction

[1] The petitioner is the owner of a strata lot in Strata Plan LMS 1685. The petitioner filed four related disputes with the Civil Resolution Tribunal ("CRT") against The Owners, Strata Plan LMS 1685 (the "Strata") alleging failure to investigate the petitioner's noise bylaw violation complaints, strata governance errors, improper fines issued to the petitioner, breach of the Strata's harassment bylaw and significant unfairness to the petitioner. In a separate decision not subject to this judicial review, the CRT found the Strata's harassment bylaw was unenforceable.

[2] In a decision issued January 16, 2024 (the "Decision"), among other findings, the CRT found the Strata met its duties under the *Strata Property Act*, S.B.C. 1998, c. 43 to investigate the petitioner's noise complaints and found the Strata had not treated the petitioner unfairly. The petitioner applies for judicial review of the Decision. The Strata says the Decision is not patently unreasonable, and the judicial review ought to be dismissed.

[3] The petitioner represented herself before the CRT and at the judicial review. In addition to the petition itself, in support of the judicial review, the petitioner filed a 160-page affidavit that is essentially a written argument with excerpts of evidence attached as exhibits, a 33-page single-spaced written argument, and 5 pages of single-spaced presentation notes. The CRT had approximately 1200 pages of materials to consider.

[4] After setting out the standard of review and the relevant legal framework, I will consider each of the four aspects of the Decision that the petitioner says should be set aside.

Standard of review

[5] The parties agree and I find the standard of review of a finding of fact or law or an exercise of discretion by the CRT is patent unreasonableness: *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25, s. 56.7(2)(a).

[6] Our Court of Appeal recently explained what is meant by patently unreasonable in *Macdonald v. The Owners, EPS 522*, 2024 BCCA 52:

> [9] The standard of review of patent unreasonableness is highly deferential. A patently unreasonable decision is one that is "openly, clearly, evidently unreasonable" and "almost borders on the absurd": *West Fraser Mills Ltd. v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2018 SCC 22 at para. 28. To be considered patently unreasonable, the decision must be so flawed that no amount of curial deference can justify letting it stand: *Maung v. British Columbia (Workers' Compensation Appeal Tribunal)*, 2023 BCCA 371 at para. 42.

[7] A court on judicial review does not reweigh evidence or substitute its own findings of fact or inferences drawn from those facts. A decision is not patently unreasonable because the evidence is insufficient. A decision is patently unreasonable “[o]nly if there is no evidence to support findings or the decision is ‘openly, clearly, evidently unreasonable’”: *Speckling v. British Columbia (Workers’ Compensation Board)*, 2005 BCCA 80 at para. 37.

Legislative context

[8] The Strata’s noise bylaw and the Strata’s statutory obligation to investigate alleged bylaw infractions are key to the errors alleged by the petitioner on this judicial review.

[9] The Strata’s noise bylaw (bylaw 4.1) says in part that a resident or visitor may not use a strata lot or common property in a way that causes a nuisance or hazard to another person, causes unreasonable noise, or unreasonably interferes with the rights of other persons to use and enjoy their strata lot or common property.

[10] Section 26 of the *Strata Property Act*, S.B.C. 1998, c. 43 requires the strata council to exercise their powers and perform the duties of the strata, including bylaw enforcement. The strata council is required to act reasonably when carrying out its duties, and this includes a duty to investigate alleged bylaw violations, such as noise complaints.

Was the CRT's dismissal of the petitioner's flooring noise complaint patently unreasonable?

Merits of the flooring noise complaint

[11] In the Decision, the CRT dismissed the petitioner's allegation that the Strata failed to reasonably address her noise bylaw violation complaint related to activity in unit 305 (the unit directly above the petitioner's unit). The petitioner complained that the occupants of unit 305 caused ongoing and frequent unreasonable noise, contrary to the Strata's noise bylaw.

[12] The petitioner traced the onset of the "constant onslaught" of thumping, knocking, heavy footfalls and so on from unit 305 to the installation of vinyl plank flooring in unit 305 in place of wall-to-wall carpet and underlay in October 2018. The petitioner says she first complained to the Strata in February 2019. The Strata investigated in September 2021 and found no evidence of unreasonable noise.

[13] In the Decision, the CRT properly identified that the petitioner had the burden of proving her allegations against the Strata on a balance of probabilities.

[14] In the Decision, the CRT found the petitioner failed to provide objective evidence to prove a substantial, non-trivial and unreasonable noise level from unit 305, assessed from the perspective of an ordinary person. The petitioner submitted a noise log setting out the time and nature of the noises she heard from unit 305, but she did not provide objective evidence regarding the volume of those noises. The petitioner did not provide decibel readouts or witness statements to support her complaints. The CRT found that the fact the petitioner was unable to provide sound recordings of the sounds because they were intermittent suggested that the noises from unit 305 did not meet the threshold of substantial, non-trivial and unreasonable interference with the petitioner's use and enjoyment of property.

[15] As set out in the Decision, the Strata's investigation of the petitioner's complaints failed to substantiate her allegation of unreasonable noise. In September 2021, three strata members and the strata manager performed an informal noise transfer test and found only faint sounds were audible in the petitioner's unit when

various activities were undertaken in unit 305. The CRT concluded that the Strata did not act unreasonably by refusing the petitioner's request to hire an engineer to perform sound transfer testing between her unit and unit 305 when informal noise transfer testing failed to disclose unreasonable noise.

[16] In my view, the petitioner has failed to prove that the CRT's dismissal of her floor noise complaint was patently unreasonable. The CRT found the petitioner failed to meet the onus of proof on her to establish substantial, non-trivial and unreasonable noise. The CRT was not persuaded by the petitioner's testimony or noise logs in the absence of objective evidence, particularly when her complaints of unreasonable flooring noise were not replicated on informal noise transfer testing. As in *Gichuru v York*, 2013 BCCA 203, the petitioner's testimony failed to establish that the flooring noise would be intolerable to the ordinary occupant. The CRT's conclusion that the petitioner failed to meet the burden of proving her claim is not clearly unreasonable, nor does it border on the absurd.

[17] Essentially, the petitioner asks the court to reweigh the evidence provided to the CRT and to reach a different conclusion on the merits of her flooring noise complaint. That is not the function of the court on judicial review.

[18] In support of her position that the CRT's dismissal of her noise complaint was patently unreasonable, the petitioner points to other CRT decisions where noise complaints were validated. However, there may be a range of CRT decisions on seemingly similar facts that would not overcome the high threshold of deference owed to a CRT decision on judicial review, all of which is not particularly helpful in assessing whether the Decision is patently unreasonable. As noted by Madam Justice Hyslop at para. 41 – 42 of *Sager v Boudreau*, 2017 BCSC 837, "inconsistent decisions of a tribunal [do] not make a tribunal's decision patently unreasonable".

Nature and timing of Strata's investigation of flooring noise complaints

[19] The petitioner says the CRT's decision is patently unreasonable because the Strata failed to investigate her flooring noise complaints adequately and in a timely manner. The petitioner says she first complained of flooring noises from unit 305 on

February 4, 2019, and the Strata did not take any steps to investigate until September 2021.

[20] At para. 20 to 21 of the Decision, the CRT set out the correct legal standard for assessing whether the Strata responded to the petitioner's complaints reasonably and fairly. At para. 32 of the Decision, the CRT concluded that "the [Strata] acted reasonably and met its SPA section 26 duties in investigating Ms. Johnson's flooring noise complaints".

[21] The issue of timing of the Strata's investigation does not appear to be specifically addressed in the Decision. I infer from para. 32 of the Decision that the CRT tribunal member determined that the investigation was conducted both reasonably and in a reasonably timely manner. The question on this judicial review is whether that conclusion is patently unreasonable.

[22] In terms of the nature of the investigation, the CRT tribunal member concluded on the evidence tendered and the facts found that one informal sound transfer test was adequate. The petitioner says this was an error and that the Strata was required to hire a sound engineer to perform sound transfer testing to meet its statutory obligation to investigate her complaint. On judicial review, the court's role is not to conduct its own assessment of the adequacy of the investigation. The only issue is whether the CRT's conclusion on this point is patently unreasonable. I am not convinced, in the factual context found by the CRT tribunal member, that the finding that the Strata's investigation was adequate is clearly unreasonable. It is not patently unreasonable for the CRT to conclude that the Strata acted reasonably and fairly by declining to spend Strata funds to hire a sound engineer when informal sound transfer testing failed to detect substantial, non-trivial and unreasonable noise emanating from unit 305.

[23] In terms of the timing of the investigation, as mentioned, the volume of material before the CRT exceeded 1200 pages. At para. 18 of the Decision, the CRT noted the Strata said the petitioner first raised concerns about noise from unit 305 in 2019. The petitioner points to her request to the Strata in February 2019 as part of a

four-page handout she submitted at a Strata council hearing into noise complaints by the occupant of unit 305 against the petitioner for tapping on the ceiling with a broom handle. As part of her defence to the complaint initiated by her upstairs neighbour, the petitioner identified various noises she said emanated from unit 305, which apparently inspired the petitioner to tap on her ceiling with a broom handle. The petitioner concluded her four-page handout by asking the strata council "to investigate and resolve the ongoing nuisance noise [she is] exposed to whenever Unit 305 is occupied".

[24] On December 7, 2020, the petitioner sent a five-page letter to the Strata detailing incidents of noise and asking the Strata to enforce the noise bylaw against unit 305 for "generating unreasonable noise in their unit" and for "deliberately running, jumping and stomping in the stairwell". The petitioner also requested "an engineering assessment of the transfer of low-frequency noise between Unit 305 and my unit as soon as possible". The petitioner sent further a letter to the strata council on March 8, 2021, about a noise complaint against the occupant of unit 305, noting in part that the occupant of unit 305 submitted "false allegations" that the petitioner continued to pound on her ceiling, which led to fines (later rescinded) against the petitioner on April 24, 2019, and March 29, 2020. The petitioner sent a follow-up letter on April 13, 2021. The Strata's lawyer responded in writing on May 6, 2021, suggesting that the Strata "has previously attempted to investigate but [the petitioner had] repeatedly refused to allow them entry into [her] strata lot for the purpose of investigating [her] complaints" and requested to enter her unit in accordance with a Strata bylaw. The petitioner responded by letter dated May 17, 2021, denying her refusal to give access to her unit. As noted, the Strata investigated on September 14, 2021, and found no evidence of unreasonable noise.

[25] The reasonableness of the timing of the investigation must be assessed in context. In this case, the context includes the following facts:

a) the petitioner's flooring noise complaint first arose in February 2019 as part of her defence to noise complaints by the occupant of unit 305 against the petitioner;

b) the petitioner sent her next request to the Strata to investigate unit 305 flooring noise complaints on December 7, 2020; and

c) the different perspectives of the petitioner and the Strata regarding the petitioner's willingness to provide access to her unit to investigate her flooring noise complaint,

In this context, the CRT tribunal member's conclusion that the flooring noise investigation was carried out in a reasonably timely manner is not openly, clearly, evidently unreasonable.

[26] The petitioner has failed to establish that the CRT's conclusion that the Strata met its statutory obligation to investigate her flooring noise complaint is patently unreasonable.

Was the CRT's dismissal of the petitioner's plumbing noise complaint patently unreasonable?

[27] The CRT dismissed the petitioner's complaint that the Strata had failed to reasonably address her complaints about plumbing noise from unit 305.

[28] As noted in the Decision, the petitioner asked the Strata to investigate and resolve her complaint of piercing, high-frequency plumbing pipe noise emanating from unit 305. The petitioner said the plumbing noise happened several times per day, increased over the period of January to May 2020, and stopped around July 2, 2020.

[29] The CRT found the petitioner had failed to prove her claim about plumbing noise. The CRT accepted that the Strata hired a plumber to investigate the plumbing noise, and the plumber was unable to recreate the complained-of plumbing noise or find any abnormal noises during three visits to the strata building in February 2020. The Decision outlines the evidence relied upon to reach this factual finding. The CRT explained that the recordings of the plumbing noise failed to establish it was significantly loud, unreasonable and physically damaging. The Decision explains why the CRT rejected hearsay evidence from the petitioner that contradicted the

plumber's written reports. The Decision highlighted the absence of expert evidence to support the petitioner's theory regarding the source of the plumbing noise and why it stopped. The CRT placed limited weight on a description of the noise from the petitioner's witness on the basis that the witness' letter was primarily advocacy in favour of the petitioner.

[30] The CRT's finding that the petitioner had failed to prove on a balance of probabilities that the noises complained of were high frequency or particularly loud is not patently unreasonable. The CRT's finding that the petitioner had failed to meet the requisite standard of proving there was a substantial, non-trivial and unreasonable interference with the petitioner's use of her property because of a plumbing noise is not openly, clearly, and evidently unreasonable. The Decision sets out the evidence relied upon and facts found that resulted in dismissal of the plumbing noise complaint. It is not for this court on judicial review to reweigh evidence or substitute different findings of fact.

[31] Further, the CRT's finding that the Strata did not unreasonably delay investigating the petitioner's plumbing noise complaints is not patently unreasonable. According to the Decision, the petitioner first complained of plumbing noise on January 23, 2020, and the plumber first attended on February 6, 2020. It is obvious there was no unreasonable delay in investigating the plumbing complaint.

[32] The petitioner alleged that the plumbing noise caused a permanent disability (tinnitus) and sought damages of $21,500 or $45,000. The petitioner says the CRT erred by requiring her to prove the plumbing noise *caused* her tinnitus. This alleged error is moot given the CRT's finding that the petitioner failed to prove the occurrence of plumbing noise. In any event, the CRT was correct in placing the onus on the petitioner to prove any injury was caused by the alleged nuisance, which she failed to do.

Was the CRT's dismissal of the petitioner's stairwell noise complaint patently unreasonable?

[33] The CRT dismissed the petitioner's complaint that the Strata had failed to reasonably address her complaints that the occupant of unit 305 "deliberately ran, jumped, and stomped in the stairwell" next to the petitioner's unit. As with the previous two noise complaints, the CRT found the petitioner had failed to prove "an objective person would find the noises a substantial, non-trivial, and unreasonable interference with use and enjoyment of property".

[34] The CRT's dismissal of the petitioner's stairwell noise complaint is not patently unreasonable. The CRT noted there was no objective evidence regarding the volume of the alleged noise and declined to accept the petitioner's opinion about the volume or reasonableness of the noise. There were complaints from two other residents about the occupant of unit 305's "heavy footfalls", which supported a finding that the petitioner had likely heard stairwell noises. However, the CRT accepted these stairwell noises "would necessarily have been brief and intermittent" and "some level of noise is expected in a residential building". The CRT's conclusion that a breach of the noise bylaw had not been proven is not clearly unreasonable. It does not border on the absurd to find that brief and intermittent noise would not unreasonably interfere with another resident's use and enjoyment of their property.

[35] On judicial review, the court's role is not to reweigh the evidence nor substitute inferences to be drawn from the facts, which is what the petitioner is asking the court to do in respect of this alleged error.

[36] In summary, the CRT's dismissal of the petitioner's stairwell noise complaint is not patently unreasonable.

Was the CRT's finding that the Strata did not treat the petitioner significantly unfairly patently unreasonable?

[37] The CRT dismissed the petitioner's allegation that the Strata treated her significantly unfairly.

[38] In her complaint to the CRT, the petitioner identified four specific instances of alleged unfair treatment. Three of these instances formed the underpinnings of the petitioner's allegations against the Strata in respect of her noise complaints, which the CRT dismissed on their merits. It was not patently unreasonable for the CRT tribunal member to conclude that the Strata did not act significantly unfairly against the petitioner in relation to noise complaints that were ultimately dismissed as unproven by the CRT.

[39] In respect of the fourth instance of alleged unfair treatment, the CRT found that the petitioner's "expectation that the strata would forbid strata residents from participating in the 7:00 pm cheer [for healthcare workers] was not objectively reasonable". In the Decision, the CRT tribunal member stated the following:

> I also find the strata did not act harshly, wrongly, unjustly or in bad faith in permitting the strata residents to participate [in] the cheers. As submitted by the strata, these cheers were conducted in many British Columbia communities during the COVID-19 pandemic. So, I do not accept that these were organized in the strata to target or harass [the petitioner]. Although [the petitioner] found the cheers disturbing, since they only occurred once per day, for a predictable and finite period, I find they did not breach bylaw 4.1 [the noise bylaw]. Also, [the petitioner] has not explained why she could not wear hearing protection during that fixed period.

[40] I am not satisfied this conclusion is patently unreasonable. There was some evidence to support the CRT's finding of no unfairness against the petitioner in connection with cheers for healthcare workers. It is not the court's role on judicial review to reweigh the evidence or draw different inferences from the facts.

Conclusion

[41] The petitioner has failed to establish the Decision was patently unreasonable. The petition is dismissed with costs to the respondent.

"Lamb J."