



# Civil Resolution Tribunal

Date Issued: May 1, 2025

File: SC-2024-003571

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Fallah v. Benjamin Towing Corp.*, 2025 BCCRT 550

B E T W E E N :

BAHAREH FALLAH

**APPLICANT**

A N D :

BENJAMIN TOWING CORP.

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Maria Montgomery

## INTRODUCTION

1. This dispute is about towing charges. The applicant, Bahareh Fallah, says the respondent, Benjamin Towing Corp., unlawfully towed her car from a visitor parking lot in a residential complex. Bahareh Fallah claims reimbursement of \$308.49 in towing charges.

2. Benjamin Towing says that it towed her vehicle because it did not have a digital parking pass. It says it is entitled to retain payment for its towing service.
3. Bahareh Fallah represents herself. Benjamin Towing is represented by a director.

## **JURISDICTION AND PROCEDURE**

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that 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.
5. The CRT conducts most hearings by written submissions, but has discretion to decide the hearing's format, including by telephone or videoconference. No party requested an oral hearing, and I find I am able to make a decision on the written record before me. So, I decided to hear this dispute through written submissions.
6. Section 42 of the CRTA 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.

## **ISSUE**

7. The issue in this dispute is whether Benjamin Towing unlawfully towed Bahareh Fallah's vehicle.

## **EVIDENCE AND ANALYSIS**

8. In a civil proceeding like this one Bahareh Fallah, as the applicant, must prove her claim on a balance of probabilities. This means more likely than not. While I have

read all the parties' evidence and submissions, I only refer to what is necessary to explain my decision.

9. The following is undisputed. Bahareh Fallah visited a residential complex on March 13, 2024. The strata corporation that owns the complex requires visitors using its parking lot to register their license plate number with a third-party online application. While entering her vehicle's license plate number, Bahareh Fallah made a typo. Benjamin Towing is contracted by the strata corporation to patrol the visitor parking lot and remove vehicles with unregistered license plate numbers. As Bahareh Fallah's license plate number was not registered in the third-party application, Benjamin Towing towed her vehicle. Bahareh Fallah says that the Benjamin Towing was unreasonable and negligent in doing so.
10. Benjamin Towing says it performed the service it was contracted to do. It says there is no way for it to know if a license plate number is entered incorrectly.
11. For the following reasons, I find Benjamin Towing did not unlawfully tow Bahareh Fallah's vehicle.
12. Parking lot law involves the law of bailment, the law of contract, and the law of trespass.<sup>1</sup> I find the law of bailment is not relevant here as Bahareh Fallah does not claim any damage to her vehicle or lack of proper care. I also find that the law of contract does not help Bahareh Fallah's claim as she did not give or pay anything to park in the visitor parking area.
13. I find that the law of trespass applies. In the absence of legislation saying otherwise, an owner of private property is entitled to have a vehicle towed from its property, if not parked properly with permission.<sup>2</sup>
14. Benjamin Towing provided its service contract with the strata. Under the agreement, Benjamin Towing is required to patrol the visitor parking lot in the complex and tow any vehicles not registered with the third-party parking application. Benjamin Towing's photos show signs on the parking lot wall, near two exit doors and

between the elevators. The signs inform visitors of the need for a “valid digital parking pass.”

15. Based on my review of the agreement and photographs, I find the visitors’ parking area where Bahareh Fallah parked is likely common property belonging to the strata corporation. I find that as the strata is the owner of the property, Benjamin Towing is reasonable in relying on the strata’s instruction to tow vehicles parked without its permission.
16. Bahareh Fallah provided a screenshot of her parking pass with the undisputedly incorrect license plate number. Benjamin Towing provided a copy of the confirmation message users receive which clearly displays the entered number. Bahareh Fallah does not dispute that she received this confirmation message or Benjamin Towing’s assertion that users can use the confirmation message to double check that the number is correct. She also did not dispute Benjamin Towing’s evidence that the third-party application tells users to confirm their parking pass with the resident they are visiting.
17. From my review of these messages and the posted signs, I find that the strata corporation required users of the visitor parking lot to have a parking pass displaying the correct vehicle license plate number. As Bahareh Fallah’s parking pass did not display her vehicle’s license plate number, it was not valid. So, I find that Bahareh Fallah trespassed by parking in the strata’s parking lot without authority to do so.
18. I acknowledge that Bahareh Fallah’s typo was an inadvertent error. However, as her vehicle’s license plate number was not registered with the third-party system, I find that Benjamin Towing was contractually obligated to tow it.
19. As noted above, Bahareh Fallah argues that Benjamin Towing was negligent. To prove negligence, Bahareh Fallah must show Benjamin Towing owed her a duty of care, it failed to meet the reasonable standard of care, and that failure caused Bahareh Fallah’s reasonably foreseeable damages.<sup>3</sup>

20. I accept that Benjamin Towing owed a duty of care toward the owners of vehicles it tows. Specifically, I find Benjamin Towing owed a duty to ensure it towed the correct vehicle, and that the person asking for the tow had the authority to do so. I find the applicable standard is that of a reasonable tow truck driver.
21. As noted above, I found that Benjamin Towing reasonably relied on the strata corporation's instruction to tow vehicles not registered with the third-party application. Bahareh Fallah's vehicle was not properly registered. Based on the evidence before me, I find Benjamin Towing met the standard of care required when it towed Bahareh Fallah's unregistered vehicle, and so it was not negligent. I dismiss Bahareh Fallah's claim against Benjamin Towing.
22. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. However, neither party paid any fees or claimed any dispute-related expenses, so I order none.

## **ORDER**

23. I dismiss Bahareh Fallah's claims.

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Maria Montgomery, Tribunal Member

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<sup>1</sup> *Webster v. Robbins Parking Service Ltd.*, 2016 BCSC 1863.

<sup>2</sup> *Webster v. Robbins Parking Service Ltd.*

<sup>3</sup> *Mustapha v. Culligan of Canada Ltd.*, 2008 SCC 27.