



# Civil Resolution Tribunal

Date Issued: November 28, 2018

File: ST-2018-000612

Type: Strata

Civil Resolution Tribunal

Indexed as: *Parker v. The Owners, Strata Plan EPS 3940*, 2018 BCCRT 779

**BETWEEN:**

Robert Parker

**APPLICANT**

**AND:**

The Owners, Strata Plan EPS 3940

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

Kate Campbell

### **INTRODUCTION**

1. The applicant, Robert Parker (owner) owns a strata lot in the respondent strata corporation, The Owners, Strata Plan EPS 3940 (strata).
2. The owner says the strata wrongfully had 2 cars owned by his visitors towed. He seeks reimbursement of \$378.29 for the towing bills.

3. The strata denies the claim. The strata says the cars were parked in violation of the strata's parking bylaws, and therefore the strata was entitled to have them towed.
4. The owner is self-represented. The strata is represented by a strata council member.
5. For the reasons set out below, I dismiss the owner's claims.

## **JURISDICTION AND PROCEDURE**

6. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over strata property claims brought under section 3.6 of the *Civil Resolution Tribunal Act* (Act). The tribunal's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the tribunal must apply principles of law and fairness, and recognize any relationships between parties to a dispute that will likely continue after the dispute resolution process has ended.
7. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I decided to hear this dispute through written submissions because I find that there are no significant issues of credibility or other reasons that might require an oral hearing.
8. The tribunal may accept as evidence information that it considers relevant, necessary and appropriate, whether or not the information would be admissible in a court of law. The tribunal may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
9. Under section 48.1 of the Act and the tribunal rules, in resolving this dispute the tribunal may make order a party to do or stop doing something, order a

party to pay money, order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

10. The issue in this dispute is whether the owner is entitled to reimbursement of \$378.29 for vehicle towing fees.

## **EVIDENCE, FINDINGS AND ANALYSIS**

11. I have read all of the evidence provided but refer only to evidence I find relevant to provide context for my decision. As with all civil claims, the applicant (the owner) bears the burden of proving his claims on a balance of probabilities.

12. The parties agree that 2 cars owned by visitors to the owner's strata lot were towed at the request of the strata council. The strata says these cars were parked in violation of the strata's parking bylaw.

13. The owner says there were no violations of the parking bylaws, and he also says the parking bylaw cited by the strata council is invalid because it was never registered with the Land Title Office. He says the strata's evidence about the alleged parking violations is contradictory and incomplete, and that the strata violated the mandatory procedure set out in section 135 of the *Strata Property Act* because no notice was given prior to towing.

14. I find that the owner is not entitled to reimbursement of the claimed towing costs because the cars in question did not belong to him. While he is named as the applicant in this dispute, his vehicles were not towed. Rather, the vehicles in question were owned by his visitors, and were parked in common property visitor parking spaces. The fact that the owner chose to pay the towing fees on behalf of his visitors does not mean that he has a personal cause of action against the strata. Rather, the cause of action rests with the vehicles' owners.

15. I recognize that as an owner and resident in the strata, the owner has an interest in how visitor parking is enforced. However, even if I found that the owner had standing in this dispute, I find he has not met the burden of proving his claims. Specifically, he did not provide evidence, such as receipts, to prove that he paid for the towing, or to establish the amount paid. For these reasons, I find the owner has not established his claim for towing costs.

16. The tribunal's rules provide that the successful party is generally entitled to recovery of their fees and expenses. The applicant was unsuccessful and so I dismiss their claim for reimbursement of tribunal fees. The respondent did not pay any fees and there were no dispute-related expenses claimed by either party.

## **ORDER**

17. I dismiss the owner's claims and this dispute.

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Kate Campbell, Tribunal Member