



Civil Resolution Tribunal

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Type: Strata

Civil Resolution Tribunal

Indexed as: *Akinbobola v. The Owners, Strata Plan NW478*, 2022 BCCRT 1009

B E T W E E N :

EDWARD AKINBOBOLA

APPLICANT

A N D :

The Owners, Strata Plan NW478

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Richard McAndrew

INTRODUCTION

1. This dispute is about a parking space rental at a strata corporation. The applicant, Edward Akinbobola, is the co-owner of strata lot 7 (SL7) in the respondent strata corporation, The Owners, Strata Plan NW478 (strata). Mr. Akinbobola claims that the strata improperly ended their parking space rental. Mr. Akinbobola asks for order requiring the strata to rent the parking space to them and to apologize.

2. The strata denies Mr. Akinbobola's claim. The strata says that Mr. Akinbobola never rented the parking space. Rather, the strata says that SL7's previous owner's parking space rental had ended and the parking space was rented to another strata lot owner before Mr. Akinbobola requested it.
3. Mr. Akinbobola is self-represented. The strata is represented by the strata council president.

JURISDICTION AND PROCEDURE

4. 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). CRTA section 2 says 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, and recognize any relationships between the dispute's parties that will likely continue after the CRT process has ended.
5. CRTA section 39 says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice and fairness.
6. CRTA section 42 says the CRT may accept as evidence information that it considers relevant, necessary and appropriate, even where the information would not be admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
7. Under CRTA section 123, 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.

Unreadable evidence

8. The strata submitted a Form B – Information Certificate document that I was unable to read. The strata was given an opportunity to resubmit it and it did so. Mr. Akinbobola was given an opportunity to respond to the resubmitted evidence, but did not do so. Since Mr. Akinbobola had an opportunity to respond, I find that they have not been prejudiced and I have considered the strata's resubmitted evidence in my decision.

ISSUES

9. The issues in this dispute are:
 - a. Must the strata rent a parking space to Mr. Akinbobola?
 - b. Must the strata apologize to Mr. Akinbobola?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, as the applicant Mr. Akinbobola must prove their claims on a balance of probabilities (meaning more likely than not). I have read all the parties' submissions and evidence but refer only to the evidence and argument that I find relevant to provide context for my decision.
11. The strata consists of 20 townhouse-style strata lots in 2 buildings. The strata filed a complete set of consolidated bylaws with the Land Title Office (LTO) in July 2011, which I find apply to this dispute. The strata filed subsequent bylaw amendments at the LTO which I find are not relevant to this dispute.
12. The strata says that it assigns 1 parking space to each strata lot and it has 5 parking spaces that it rents to owners. I find that all of the parking spaces at the strata, including the assigned parking spaces and the rented parking spaces, are common property under section 1(1) of the *Strata Property Act* (SPA). I reach that conclusion because the parking spaces are not shown as being part of any strata lots nor designated as limited common property in the strata plan. Further, there is no

evidence before me showing that any parking spaces have been designated as limited common property by an owners' resolution under SPA section 73(c).

Parking space rental

13. Mr. Akinbobola purchased SL7, with a January 14, 2022 completion date. Mr. Akinbobola has had access to 1 assigned parking space since they purchased SL7. However, they argue that they are also entitled to rent a second parking space.
14. Bylaw 6(10) says an owner can rent an available parking space on a first come, first serve basis at the rate of \$120 per year. The bylaw also says that the parking space rental ends at the earlier of the parking space rental agreement's end date or the date that the strata lot is sold.
15. It is undisputed that SL7's previous owner rented a parking space from the strata. Mr. Akinbobola says that they expected that this parking rental would continue after they bought the strata lot. However, Mr. Akinbobola did not provide any evidence or submissions showing that they told the strata that they wanted to continue the parking rental before their strata lot purchase was completed.
16. The strata says the previous owner cancelled their parking space rental on December 22, 2021. However, even if the previous owners had not cancelled it, I find that their parking space rental would have ended anyway when SL7 was sold, under the terms of bylaw 6(10). So, I find that the previous owner's parking rental had ended by the time that Mr. Akinbobola completed their purchase of SL7 on January 14, 2022.
17. On January 15, 2022, the strata sent all of the owners a notice saying that a parking space was available for rent. The strata president, CK says that she hand delivered these notices to each of the strata lots. CK says that the owners of the first strata lot she approached immediately asked to rent the parking space. CK says that she handwrote a message on the remaining notices, including Mr. Akinbobola's notice, saying that the parking rental was no longer available.
18. Mr. Akinbobola says that the strata's January 15, 2022 notice is invalid because it was misdated. Mr. Akinbobola says the document has a handwritten date of January

24, 2022. However, I find that the handwritten date actually says “Jan 22”. CK says that she mistakenly dated the handwritten message on Mr. Akinbobola’s notice as “Jan 22” rather than “Jan. 15/22.” Mr. Akinbobola also says that the strata’s January 15, 2022 notice incorrectly referred to a parking rental term ending on August 31, 2021, which had already expired. The strata says that “2021” was a typographical error and the document should have said “2022”.

19. I find the strata’s explanations for the date errors to be plausible and I find that nothing turns on these discrepancies. In the absence of conflicting evidence, I accept CK’s description of her distribution of the strata notices on January 15, 2022 as accurate.
20. The strata says that Mr. Akinbobola demanded use of the rental parking space on January 16, 2022, after the other strata lot owner requested it. The strata says that it placed Mr. Akinbobola on the waiting list for the next available parking space rental.
21. On balance, I find that the strata reasonably assigned the available rental parking to another strata lot owner on a first come, first serve basis as required in bylaw 6(10). I find that Mr. Akinbobola has not provided sufficient evidence to prove that they rented the parking space before it was offered to other strata lot owners. Further, I find that Mr. Akinbobola has not established that the strata violated the bylaws by renting the parking space to the first strata lot owner that requested it. Rather, I find that the strata’s actions were consistent with bylaw 6(10). Further, I find that the strata’s decision to not rent a parking space to Mr. Akinbobola was a reasonable exercise of the strata council’s discretion about the allocation of parking spaces because there were no longer any spare rental parking spaces when Mr. Akinbobola made their request on January 16, 2022. So, I find that Mr. Akinbobola did not prove that the strata acted improperly by not renting the parking space to them.

Significant unfairness

22. I find that Mr. Akinbobola is also essentially claiming that the strata treated them significantly unfairly by refusing to rent the parking space to them. Under section 123(2) of the CRTA, the CRT has jurisdiction to consider whether an action listed under s. 121(1)(e) to (g) of the CRTA is significantly unfair (see *Time Share Section*

of *The Owners, Strata Plan N 50 v. Residential Section of The Owners, Strata Plan N 50*, 2021 BCSC 486). I find that the strata's decision to not rent the parking space to Mr. Akinbobola was within the scope of the CRT's jurisdiction under CRTA section 121(1)(f).

23. Under CRTA section 123(2), the CRT can make orders to remedy a strata's significantly unfair actions or decisions. In *Reid v. Strata Plan LMS 2503*, 2003 BCSC 126, the BC Court of Appeal interpreted a significantly unfair action as one that is burdensome, harsh, wrongful, lacking in probity or fair dealing, done in bad faith, unjust or inequitable.
24. In *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342, the BC Court of Appeal confirmed that the reasonable expectations of an owner may also be relevant to determining whether the strata's actions were significantly unfair. The test for assessing an owner's reasonable expectations is from *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44:
 - a. What was the owner's expectation?
 - b. Was that expectation reasonable?
 - c. Did the strata violate that expectation with a significantly unfair action or decision?
25. I find that Mr. Akinbobola did not prove that the strata acted significantly unfairly towards them. As discussed above, bylaw 6(10) provides for the rental of parking spaces on a first come, first serve basis. I find it is not an objectively reasonable expectation on Mr. Akinbobola's part to be assigned a parking space that someone else had rented first.
26. Mr. Akinbobola also claims that the strata racially discriminated against them. I find that Mr. Akinbobola does have an objectively reasonable expectation that the strata would not make decisions or take actions against them in a discriminatory manner. Mr. Akinbobola claims the strata was racially prejudiced against him and that the strata allegedly decided to rent the parking space to another strata lot owner based

on his ethnicity. However, Mr. Akinbobola has not provided any evidence supporting his allegation that the strata's rental decision was racially motivated. In the absence of supporting evidence, I find that Mr. Akinbobola has not proved that the strata racially discriminated against him.

27. For the above reasons, I dismiss Mr. Akinbobola's request for an order requiring the strata to rent a parking space to them.

Apology

28. Mr. Akinbobola also requests an order requiring the strata to apologize for not renting the parking space to them. For the reasons discussed above, I find that the strata has not acted improperly in refusing to do so. Further, even if the strata had acted improperly, the CRT does not generally order apologies because forced apologies are likely not productive or helpful.

29. For the above reasons, I dismiss Mr. Akinbobola's claims.

CRT FEES AND EXPENSES

30. Under section 49 of the CRTA, and the CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. As Mr. Akinbobola was unsuccessful in this dispute, I find they are not entitled to reimbursement of any CRT fees or expenses. As the successful party, the strata did not pay any CRT fees or request reimbursement of any expenses.
31. The strata must comply with section 189.4 of the SPA, which includes not charging dispute-related expenses against Mr. Akinbobola.

ORDERS

32. I dismiss Mr. Akinbobola's claims and this dispute.

Richard McAndrew, Tribunal Member