



# Civil Resolution Tribunal

Date Issued: June 5, 2024

File: ST-2023-000611

Type: Strata

Civil Resolution Tribunal

Indexed as: *Thompson v. The Owners, Strata Plan EPS3097*, 2024 BCCRT 511

B E T W E E N :

BRODIE THOMPSON

**APPLICANT**

A N D :

The Owners, Strata Plan EPS3097

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

J. Garth Cambrey, Vice Chair

## INTRODUCTION

1. This strata property dispute is about reimbursement of towing charges and lost wages.
2. The applicant, Brodie Thompson, rents a strata lot in the respondent strata corporation, The Owners, Strata Plan EPS3097 (strata). Mr. Thompson represents himself. A strata council member represents the strata.

3. Mr. Thompson says the strata wrongfully towed his girlfriend's vehicle from a visitor's parking stall in December 2022. He says the strata misinterpreted the parking rules and did not follow required procedures before towing the vehicle. He seeks recovery of a total of \$597.52, broken down as follows:
  - a. \$277.52 for the towing charge,
  - b. \$120.00 for his girlfriend's lost wages when locating their vehicle, and
  - c. \$200.00 for lost wages when locating his girlfriend's vehicle, and
4. The strata disagrees and says it properly followed all procedural requirements before towing the vehicle. It also says that it did not act significantly unfairly in doing so. Finally, it says Mr. Thompson does not have standing (legal authority) to bring this claim because the towed vehicle was not his. The strata asks that Mr. Thompson's claims be dismissed.
5. As explained below, I dismiss Mr. Thompson's claims and this dispute.

## **JURISDICTION AND PROCEDURE**

6. 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.
7. 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. I am satisfied an oral hearing is not required as I can fairly decide the dispute based on the written evidence and submissions provided.

8. CRTA section 42 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.

## **ISSUES**

9. The issues in this dispute are:
  - a. Does Mr. Thompson have standing to bring his claims?
  - b. If so, did the strata follow the required procedures before towing the car?
  - c. Did the strata act significantly unfairly when it towed the car?

## **BACKGROUND, EVIDENCE AND ANALYSIS**

10. In a civil proceeding such as this, Mr. Thompson must prove his claims on a balance of probabilities, meaning more likely than not. I have considered all the parties' submissions and evidence but refer only to information I find relevant to explain my decision.
11. The strata was created in August 2016 and exists under the *Strata Property Act* (SPA). It filed a complete new set of bylaws with the Land Title Office on March 5, 2018, which are the bylaw applicable to this dispute. It has also passed parking rules relating to the use of visitor parking stalls, which I discuss below.
12. There is a history of parking complaints about Mr. Thompson's car and his girlfriend's car. Mr. Thompson has received letters of complaint for several infractions, but this dispute is only about his girlfriend's vehicle being towed on December 7, 2022, and events leading up to that.

### ***Standing***

13. Mr. Thompson is the only applicant here. The parties agree that Mr. Thompson did not own the car which was towed in December 2022. As a result, the strata says Mr. Thompson does not have a cause of action and relies on *Parker v. The Owners*,

*Strata Plan EPS 3940, 2018 BCCRT 779.*

14. In *Parker*, a CRT tribunal member found the applicant owner was not entitled to reimbursement of their claimed towing costs because they did not own the towed vehicles. She found the cause of action was that of the vehicle owners. While I am not bound by *Parker*, I agree with the tribunal member's reasoning and find it applies here.
15. I also note, that contrary to Mr. Thompson's submissions, the towing receipt he provided in evidence clearly shows that he did not pay the towing cost. The receipt identifies the credit card used to pay the expense, and the cardholder's name, which was not Mr. Thompson.
16. For these reasons, I dismiss Mr. Thompson's claims for reimbursement of his girlfriend's wages and the cost to tow her car for lack of standing.
17. That leaves Mr. Thompson's claim of \$200.00 for his lost wages for time spent to locate his girlfriend's vehicle after it was towed. Mr. Thompson clearly has standing to bring this claim, which requires further consideration of the alleged parking violation.

***Did the strata follow the required procedures?***

18. Bylaw 38(3) says that visitor must park in designated visitor parking stalls. Bylaw 38(4) says cars parked in violation of the bylaws will be removed at the strata's discretion and the vehicle owner's expense. The bylaws do not address visitor parking further, but the strata's rules do.
19. I reproduce Visitor Parking Stall rules 3, 4, 5 and 6 as written:

Rule 3 - Each spot in [the strata] is limited to a maximum of 24 hours.

Rule 4 – Visitors are allowed up to four (4) consecutive days per week; however, a written request with intended dates, vehicle make, model and licence plate # is to be emailed to [the strata manager].

Rule 5 – For four (4)+ consecutive days, up to a maximum of fourteen (14) days per six (6) months cycle, a written request with intended dates, vehicle make, model and licence plate # must be emailed to [the strata manager].

Rule 6 a. – Owner/Tenants who are in violation of the visitor parking rules will receive a warning notice from Council on the windshield of the vehicle.

Rule 6 b. – Continued disregard for rule, Owner/Tenant will receive a formal infraction letter from [the property manager].

Rule 6 c. – further disregard will result in vehicle being towed at the owners' expense.

20. It appears the rules were effective in August 2022. Mr. Thompson says he was not aware of the rules until October 4, 2022, when he received 2 infraction letters from the strata manager. One letter alleged his girlfriend's vehicle was parked in visitor parking for more than 24 hours and the other for more than 14 days in a 6-month period. Mr. Thompson responded noting the car had not been parked in visitor parking for 14 days and suggested the strata was misinterpreting the rules. Essentially, he argued rule 5 should be interpreted to only restrict visitor parking for up to 14 days consecutive days in a 6-month period and that parking for 14 non-consecutive days in a 6-month period was not in contravention of the rule. He did not contest the 24-hour allegation. Mr. Thompson requested a council hearing, which was held on November 3, 2022.
21. Details of the council hearing are not before me, so it is unclear if Mr. Thompson requested a decision of the strata council. In any event, he emailed the strata manager on November 4, 2022, to reiterate his interpretation of rules 4 and 5 to mean that parking in visitor's parking was not permitted for 4 to 14 consecutive days in any 6-month period, which his girlfriend had not done. He stated his girlfriend would continue to park in visitor parking for periods of less than 24 hours.
22. Mr. Thompson did not get a response to his email and his girlfriend's car was towed on December 7, 2022. Mr. Thompson sent further emails to the strata manager

expressing his displeasure with the car being towed. I will not set out those emails here as I agree with the strata's interpretation of the visitor parking rules about how long a car may park in a visitor stall. Specifically, I agree that the rules says a visitor's car may only be parked in visitor parking for up to 24 hours per day, except for up to 4 consecutive days, or up to a total of 14 days in any 6-month period if the strata manager is properly notified. Mr. Thompson did not notify the strata manager of any excess parking for his girlfriend's car, whether consecutive days or not.

23. Under visitor parking rule 6c, an offending vehicle cannot be towed unless the strata places a warning letter on the vehicle and then provides an infraction letter to the owner and tenant involved. Based on the overall evidence, I accept that this process was properly followed.
24. But what about the requirements of the SPA. The strata relies on SPA section 133(1) that says it may do what is reasonably necessary to remedy a bylaw contravention, including removing objects, such as visitor's vehicle, from common property. I note other CRT decisions have considered whether SPA section 135 applies when a vehicle is towed. See for example, *Moulson v. The Owners, Strata Plan LMS 2243*, 2021 BCCRT 579.
25. Section 135 requires a strata corporation to have received a complaint, given the owner and tenant written particulars of the complaint, and an opportunity to be heard before requiring a person must pay the costs of remedying a bylaw contravention. In *Moulson*, the tribunal member found section 135 does not apply to a towing charge when the towing charge is paid directly by the offending vehicle owner, such as is the case here.
26. Although not binding on me, I agree with the tribunal member's reasoning in *Moulson*, and I adopt it here. Therefore, the strata was not required to follow SPA section 135 and properly followed its visitor parking rules before it towed the vehicle.

***Did the strata act significantly unfairly?***

27. Although not expressly argued by Mr. Thompson, I find he considers the strata's action of towing his girlfriend's vehicle to be significantly unfair. The CRT has

jurisdiction to determine claims of significant unfairness. See *The Owners, Strata Plan BCS 1721 v. Watson*, 2018 BCSC 164.

28. As noted by the strata, in *Reid v. Strata Plan LMS 2503*, 2003 BCCA 126, the BC Court of Appeal interpreted a significantly unfair action as one that is burdensome, harsh, wrongful, lacking in probity or fair dealing, or done in bad faith. In *King Day Holdings Ltd. v. The Owners, Strata Plan LMS3851*, 2020 BCCA 342, the court confirmed that where a strata corporation exercises discretionary authority, as it did here by towing the vehicle, an owner or tenant's reasonable expectations can form part of the significant unfairness inquiry.
29. In *Dollan v. The Owners, Strata Plan BCS 1589*, 2012 BCCA 44, the court established a reasonable expectations test, restated in *Watson* at paragraph 28 as follows:
  - a. What is or was the expectation of the affected owner or tenant?
  - b. Was that expectation on the part of the owner or tenant objectively reasonable?
  - c. If so, was that expectation violated by an action that was significantly unfair?
30. Mr. Thompson expected the strata not to tow his girlfriend's vehicle because of his interpretation of the visitor parking rules. I find this expectation was not objectively reasonable because the strata council likely informed him of its interpretation of the rules at a council hearing and he chose to disregard that interpretation and continue to allow his girlfriend to park in violation of the rules.
31. Therefore, I do not find the strata's towing of Mr. Thompson's girlfriend's vehicle was significantly unfair.
32. For all of these reasons, I decline to order the strata to pay Mr. Thompson \$200.00 for alleged lost wages.

## **CRT FEES AND EXPENSES**

33. Under CRTA section 49 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. Neither party claimed dispute-related expenses, and the strata did not pay CRT fees. Therefore, I make no order for fees or expenses.

## **DECISION**

34. I dismiss Mr. Thompson's claims and this dispute.

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J. Garth Cambrey, Vice Chair