



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RPP, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the respondent on September 20, 2013. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order for the return of his 1989 Jaguar automobile?
- b. Alternatively, whether the tenant is entitled to a monetary order and if so how much?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began on November 15, 2013. The landlord is identified in the written tenancy agreement as Homelife Glenayre Realty Chilliwack Ltd. (Property Management Division). The tenancy agreement provided that the tenant(s) would pay rent of \$725 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$362.50 at the start of the tenancy.

The tenant signed a Form K at the start of the tenancy agreeing to comply with the bylaws and rules of the strata corporation that are in force from time to time.

Paragraph 35 of the Strata Corporation bylaws provides that only vehicles with a current license and/or liability insurance in force shall be allowed in the parking areas. Further it provided that unlicensed vehicles in the secure parkade or parking area shall not be permitted unless the vehicle is displaying proof of current storage insurance confirmed by way of a form letter from the Strata Council signed by a council member identifying the necessary insurance is on file. There is a sign at the entrance to the parkade that states "ALL VEHICLES MUST BE INSURED AND DISPLAY PROOF OF INSURANCE. VIOLATORS WILL BE TOWED."

The applicant testified that he went on vacation on July 16, 2013 and did not return until July 31, 2013. When he returned he discovered that his 1989 Jaguar automobile had been towed and was in a tow lot. He produced evidence to the effect that at all material time the vehicle was properly insured. He testified that it now cost over \$3000 to have the vehicle released. He testified the vehicle is worth \$2200.

The representative of the respondent testified there are 228 rental units in the complex that are individually owned. Homelife Glenayre Realty Chilliwack Ltd. (Property Management Division) acts as agent for the owners with respect to 60 to 70 units. The representative of the respondent submits the following:

- The applicant failed to display his vehicle was properly insured and thus failed to comply with the Strata Corporation Regulations. The representative of the landlord testified the security company had photographs to establish the

insurance was not displayed. The tenant acknowledged that unknown to him his plates had been removed. The tenant is particularly upset because no one took steps to advise him the car was going to be towed so that he could show he had the proper insurance.

- The applicant filed a claim against the wrong party. This is not a landlord-tenant dispute. Neither Homelife Glenayre Realty Chilliwack Ltd (Property Management Division) nor the registered owner had anything to do with the towing of the vehicle. The strata corporation hired a security firm and they have given that security firm orders to tow any vehicle that does not proper insurance displayed. While the applicant may have a claim against the strata corporation, the security company or the towing company they do not have a claim against the respondent.
- The applicant failed to mitigate his loss. The applicant became aware his vehicle had been towed at the end of July or early August and could have paid the fines, storage charges etc. and brought a claim for compensation based if he felt the strata corporation was liable.

Analysis

After carefully considering all of the evidence I determined the applicant failed to establish a claim against the respondent for the following reasons. Firstly, the applicant identified an entity as the respondent that does not exist in law. The applicant has a tenancy agreement with Homelife Glenayre Realty Chilliwack Ltd. (Property Management Division) and not Homelife. Secondly, I the applicant failed to prove that his landlord Homelife Glenayre Realty Chilliwack Ltd. (Property Management Division) requested the towing of the vehicle or had anything to do with the towing of the vehicle. It may be the tenant has a claim against the strata corporation, the security company working for the strata corporation or the towing company. However, this does not give the applicant a claim against his landlord.. The respondent does not have legal authority to obtain the release of the vehicles. Thus there is no basis for an order that

the respondent return the vehicle. Further, I determined the respondent is not responsible to compensate the applicant.

As a result I order that the application be dismissed.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the Residential Tenancy Act.

Dated: October 15, 2013

Residential Tenancy Branch

