



Civil Resolution Tribunal

Date Issued: July 19, 2018

File: SC-2017-006435

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Chuang v. Aves*, 2018 BCCRT 344

BETWEEN:

Jessica Chuang

APPLICANT

AND:

Katelynn Aves

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. This is a dispute about a Chihuahua/Pomeranian cross dog named Bentley. The applicant, Jessica Chuang, says her former roommate the respondent, Katelynn Aves, has improperly failed to return Bentley. The respondent says the intention

was always that the parties would jointly own Bentley and that the applicant failed to properly care for Bentley. The respondent did not file a counterclaim. The parties are self-represented.

JURISDICTION AND PROCEDURE

2. These are the formal written reasons of the Civil Resolution Tribunal (tribunal). The tribunal has jurisdiction over small claims brought under section 3.1 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.
3. 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.
4. 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.
5. Under tribunal rule 126, in resolving this dispute the tribunal may: order a party to do or stop doing something, order a party to pay money, or order any other terms or conditions the tribunal considers appropriate.

ISSUE

6. The issue in this dispute is about whether the applicant owns the dog Bentley, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

7. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only referenced the evidence and submissions as necessary to give context to my decision.
8. It is undisputed that on June 6, 2017 the applicant paid \$1,800 for Bentley's purchase, without contribution from the respondent. The applicant is listed as the sole "owner" on the "puppy purchase" sale receipt. It is also undisputed that the respondent took Bentley on August 4, 2017 and has failed to return the dog to the applicant. The parties' roommate relationship ended on August 10, 2017. On August 14, 2017, the applicant's lawyer wrote the respondent demanding Bentley's return.
9. While the respondent alleges the "intention" was always for her to reimburse the applicant 50% of Bentley's purchase cost, the fact is that the respondent never did so.
10. I turn to the relevant chronology. The respondent says that it was the parties' intention that they would be joint owners of Bentley, and points to the applicant's June 6, 2017 text "Can't wait for us to get our puppy". I accept that the respondent agreed to care from Bentley from time to time. However, I prefer the applicant's evidence that this text reference and the respondent's care was because the respondents were roommates, rather than joint owners of Bentley.
11. At some point before July 12, 2017, the respondent texted the applicant about the applicant's being "gone lots with works" and whether the applicant wanted the respondent to take Bentley with her. At this point, the parties' relationship remained amicable. The respondent further stated,

Totally your choice cus he is your dog and I don't know your schedule.

12. On balance, I find that the applicant is Bentley's sole owner. I turn then to the issue of whether the applicant should nonetheless not get Bentley back, because of the respondent's submission the applicant has not adequately cared for the dog.
13. The respondent's supporting evidence consists of a few photos of the applicant socializing. I agree with the applicant that none of this proves the applicant is an unfit dog owner. The fact that the respondent agreed to care for Bentley while the applicant was away on a holiday also does not prove the applicant is unfit or that she has abandoned Bentley as alleged by the respondent. A dog owner has not abandoned their animal if they have made reasonable arrangements for the dog's care while the owner is away, which in this case occurred when the respondent agreed to care for Bentley from time to time.
14. While the Society for the Prevention of Cruelty of Animals is responsible for the protection of animals, contrary to the respondent's submission I find there is no evidence before me upon which I could conclude the applicant is not entitled to have Bentley returned to her. For instance, while the respondent says that when she returned home Bentley had no food and water and that there were witnesses who could support this claim. Yet, there is no evidence from any such witnesses before me.
15. I find the applicant has proven her claim and that the respondent must return Bentley to the applicant. While the respondent says she has been financially responsible for Bentley since August 2017, any such expenses arose because of the respondent's refusal to return Bentley when the applicant's lawyer demanded she do so.
16. The applicant was successful in this dispute. In accordance with section 49 of the Act and the tribunal's rules, as such I find she is also entitled to reimbursement of \$125 in tribunal fees. There were no dispute-related expenses claimed.

ORDERS

17. I find the respondent must immediately a) return the dog Bentley to the applicant, and b) pay the applicant \$125 in reimbursement for tribunal fees.
18. The applicant is also entitled to post-judgment interest, as applicable.
19. Under section 48 of the Act, the tribunal will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the tribunal's final decision.
20. Under section 58.1 of the Act, a validated copy of the tribunal's order can be enforced through the Provincial Court of British Columbia. A tribunal order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a tribunal order has the same force and effect as an order of the Provincial Court of British Columbia.

Shelley Lopez, Vice Chair