



Civil Resolution Tribunal

Date Issued: September 11, 2018

File: SC-2017-007119

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Spears v. Langston*, 2018 BCCRT 511

BETWEEN:

Susan Spears

APPLICANT

AND:

Linda Langston

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Kate Campbell

INTRODUCTION

1. This dispute is about payment for a puppy and puppy care.

2. The applicant, Susan Spears, says she paid the respondent, Linda Langston, \$650 as payment for a puppy plus \$100 to care for the puppy while she was working out of town. She says the respondent then refused to give her the puppy.
3. The applicant initially sought a refund of \$750. However, after this dispute was filed, the respondent agreed that she owed the applicant \$650 for the puppy payment, and refunded that amount. The respondent says she does not owe the additional \$100 because she performed the requested puppy care services.
4. The respondent cancelled the puppy sale, so this dispute is not about who gets possession of the puppy.
5. Both parties are self-represented.

JURISDICTION AND PROCEDURE

6. 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.
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. Neither party requested 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 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.

ISSUES

10. The issue in this dispute is whether the applicant is entitled to a refund of \$100 from the applicant.

FACTS AND EVIDENCE

11. In a civil claim such as this, the applicant bears the burden of proof, on a balance of probabilities. I have only addressed the evidence and arguments to the extent necessary to explain my decision.
12. In a July 6, 2017 email to the applicant, the respondent wrote that she heard from an acquaintance that the applicant wanted to buy her puppy. The respondent wrote that she could give the puppy to the applicant on August 3, and the applicant should pay a 50% deposit of \$325 by e-transfer.
13. The applicant emailed back July 6, stating that she would pick up the puppy on August 3. She e-transferred the \$325 deposit on the same day.
14. The applicant did not pick up the puppy on August 3, for reasons that are unclear from the evidence before me. On August 8, the respondent emailed the applicant to ask her plan for picking up the puppy. The applicant replied that she was working out of town fighting forest fires. She asked the respondent to keep the puppy until the end of August, as her employer was short-staffed. She said she would pay the remaining \$325 purchase price, plus \$100 “for keeping him for me.” The applicant wrote that if this did not work for the respondent, she would take her

name off the work roster and pick up the puppy after she was released from her current deployment.

15. The respondent replied by email. She agreed to keep the puppy until the end of August for \$100, and said she would start training him. She said the extra money would go towards food and her time.
16. On August 23, the applicant emailed and said she was not available to pick up the puppy until September 7. She offered to pay another \$50 for food and the respondent's time. The respondent replied on August 24. She said that September 7 would not work, and the puppy had to be picked up by August 31 or she would return the purchase price. She said the applicant had to let her know by the end of the day, or she would give the puppy to someone else.
17. On August 24, the applicant emailed stating that she would pick up the puppy on August 30. The parties exchanged some heated emails, and the respondent wrote that the applicant was not a good fit for the puppy and she would return the applicant's \$650.
18. In subsequent emails, the respondent wrote that she would not refund the additional \$100 because that was a payment for her time and training.

REASONS AND ANALYSIS

19. Based on the evidence before me, I find the respondent is not obligated to refund \$100 to the applicant.
20. The parties in this case had 2 separate but related agreements. The first agreement, as set out in the July 6, 2017 emails, was for the purchase of a puppy on August 3 for \$650. The second agreement, set out in the August 8, 2017 emails, was for the respondent to care for the puppy until the end of August, for a fee of \$100.

21. The July 6, 2017 agreement was first breached when the applicant did not pick up the puppy on August 3, but the respondent agreed to an amendment that allowed for the applicant to pick up the puppy at the end of August. The agreement was breached again when the respondent refused to provide the puppy on or around August 24, 2017. As the respondent has already refunded the \$650 purchase price, I find that no further remedy is required for the respondent's breach of the puppy purchase agreement.
22. In her August 8 email, the applicant specifically asked the respondent to care for the puppy until the end of August. As pointed out by the respondent, this care included dog food and her time. The respondent provided those services, as requested by the applicant. If not for the applicant's request, she would not have had to feed and care for the puppy from August 3 to 31.
23. The parties agreed in writing that \$100 was the fee for the respondent's dog care services in August 2017. As the respondent provided the service, as requested by the respondent, she is not required to refund the \$100 fee.
24. While the respondent cancelled the puppy purchase contract on August 24, and was actually paid to care for the puppy on behalf of the applicant until August 31, I find that she reasonably had to continue to care for the puppy in that interim period until she could find another home for it. For these reasons, I find the applicant is not entitled to any refund of the \$100 puppy care fee.
25. 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 her claim for reimbursement of tribunal fees. The respondent did not pay any fees and there were no dispute-related expenses claimed by either party.

ORDERS

26. I dismiss the applicant's claims and this dispute.

Kate Campbell, Tribunal Member