



Civil Resolution Tribunal

Date Issued: October 10, 2018

File: SC-2017-005923

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Shannon v. Fairfield Animal Hospital LTD.*, 2018 BCCRT 605

B E T W E E N :

Sharon Shannon

APPLICANT

A N D :

Fairfield Animal Hospital LTD.

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Shelley Lopez, Vice Chair

INTRODUCTION

1. The applicant, Sharon Shannon, says the respondent, Fairfield Animal Hospital LTD., did surgery on his Great Dane dog Daisy, and “made a mess” and the stitches came out the next day. The applicant took Daisy to another veterinarian to

have the sutures repaired. The applicant claims a \$795.15 refund of the surgery cost and \$70.51 reimbursement for 'Metacam' medication, plus \$160 for time and gas spent on dealing with the matter.

2. The respondent denies liability, and says the applicant's refusal of an "E-collar", which would have prevented Daisy from licking or chewing at the sutures, caused the suture issue. The applicant is self-represented and the respondent is represented by Jennifer Watt, an employee or principal.

JURISDICTION AND PROCEDURE

3. 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.
4. The tribunal has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. I find I can fairly resolve this dispute based on the documentary evidence and written submissions before me.
5. 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.
6. 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

7. The issue in this dispute is whether the respondent failed to properly stitch up the applicant's dog Daisy after surgery, and if so, what is the appropriate remedy.

EVIDENCE AND ANALYSIS

8. I have only commented on the evidence and submissions to the extent necessary to give context to these reasons. In a civil dispute such as this, the burden of proof on the applicant is the balance of probabilities.
9. The respondent's discharge instructions for Daisy included the following bolded and capitalized statement, "DO NOT ALLOW YOUR PET TO LICK OR CHEW AT THE INCISION SITE". It is undisputed that the applicant refused an E-collar. It is also undisputed that this would have prevented Daisy from licking or chewing at the sutures. However, the applicant denies he is responsible for Daisy's sutures coming out. The applicant says Daisy could not lick her wounds after the respondent's surgery, because the applicant had put gauze over the wound area which was wrapped with tape around her body. The applicant says the respondent did not put the stitches thick enough, as Daisy's rib cage goes side to side when she walks.
10. The respondent says after the surgery for a full thickness skin laceration, Daisy was sent home with antibiotics to prevent infection and anti-inflammatories to reduce swelling. The respondent says that the day after Daisy was sent home, the applicant took her to another veterinary clinic. The respondent says if the applicant had contacted it, it would have repaired the open part of the incision at no additional charge. However, the respondent was not aware that Daisy's sutures had come out until the applicant made his complaint, after the other clinic had treated Daisy.
11. The respondent says it spoke to a Dr. Kopp, who was the veterinarian who did the final repair, after the applicant complained about the respondent's stitches coming

apart. The respondent says Dr. Kopp was quite certain that Daisy had chewed her stitches out due to the appearance of the skin around the laceration area. The respondent further says that it has discussed the issue “several times” with Dr. Kopp and Dr. Kopp’s view was that Daisy was able to get at her stitches because she was not wearing an E-collar. Dr. Kopp’s stated views are documented in the respondent’s chart notes for Daisy. In his reply submission, the applicant says “Dr. Kopp made the statement about who had done the job”. I find this statement confusing, and in any event it does not address the issue of Dr. Kopp’s view that Daisy had got at her stitches herself.

12. I find that this is the central issue in this dispute. The applicant has not provided any statement or opinion from Dr. Kopp, other than Dr. Kopp’s invoice that does not address the cause of Daisy’s sutures having come out. I find that the absence of a statement or opinion suggests that Dr. Kopp’s evidence would not support the applicant’s position.
13. There is no evidence before me critical of the respondent’s care. I cannot tell from the photos in evidence that Daisy did not lick or chew at her sutures. The fact that there may have been gauze taped around the wound does not mean that Daisy did not chew or lick at the area, through the tape and gauze. I simply do not have sufficient evidence that the respondent failed to properly suture Daisy’s wounds, as opposed to Daisy getting at them herself. As noted above, the applicant bears the burden of proof. I find he has not met that burden.
14. Further, the respondent says the applicant had been applying an ointment to the area after the respondent had discharged Daisy, which the respondent says was not recommended and which could cause damage to the area. The applicant says the ointment helps healing and she uses it “all the time”. The applicant is not a veterinarian and has provided no evidence, such as from Dr. Kopp, that the ointment was a non-issue.
15. Given my conclusion above, I do not need to address the applicant’s requested remedies in any detail, although I note the tribunal generally does not grant orders

for “time spent” on a dispute as this is inconsistent with the tribunal’s rules that provide legal fees are only recoverable in extraordinary cases. In other words, if a party can only recover legal fees in extraordinary cases, it is typically not reasonable to pay a party for their own time either. I see no reason to deviate from that general practice here. This is not an extraordinary case.

16. As the applicant was unsuccessful, I find he is not entitled to reimbursement of tribunal fees paid.

ORDER

17. I find the applicant’s claims, and therefore this dispute, must be dismissed.

Shelley Lopez, Vice Chair