



# Civil Resolution Tribunal

Date Issued: March 20, 2019

File: SC-2018-006854

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Ding v. Tanzil*, 2019 BCCRT 349

**BETWEEN:**

Haojia Ding

**APPLICANT**

**AND:**

Jimmy Tanzil

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Eric Regehr

### INTRODUCTION

1. This is a dispute over a dog bite. The applicant, Haojia Ding, has a German shephard named Rambo. The respondent, Jimmy Tanzil, has a golden retriever named Piko. The dogs met at a dog park in Langley and during their encounter, Piko injured Rambo's ear. Each party says that the other party's dog was the aggressor. The claimant claims \$800 for veterinary bills and other compensation.

2. The parties are each self-represented.

## **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 118 of the *Civil Resolution Tribunal 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 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.
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 make one or more of the following orders:
  - a. order a party to do or stop doing something;
  - b. order a party to pay money;
  - c. order any other terms or conditions the tribunal considers appropriate.

## **ISSUES**

7. The issue in this dispute is whether the respondent is liable to the applicant for the applicant's veterinary bills and other expenses caused by the dog bite.

## **EVIDENCE AND ANALYSIS**

8. In a civil claim such as this, the applicant must prove her case on a balance of probabilities. While I have read all of the parties' evidence and submissions, I only refer to what is necessary to explain and give context to my decision.
9. On August 15, 2018, the applicant and her son took Rambo to an off-leash dog park in Langley at around 5:00 pm. The respondent's 2 sons arrived shortly thereafter with Piko.
10. The applicant says that when Piko arrived at the dog park, Piko quickly became aggressive with Rambo. During the encounter, Piko bit Rambo's ear, causing it to bleed. The applicant says that the respondent's sons were not nearby when the incident occurred. The applicant asked the respondent's sons to call their parents, and the respondent attended.
11. The respondent does not dispute that Piko bit Rambo on the ear. However, he says that it was Rambo who became aggressive and that Piko bit Rambo in self defence. Presumably, the respondent is relaying what his sons told him, because he was not present when the incident occurred. There is no direct evidence from the respondent's sons, who are both minors. There is no evidence that anyone else witnessed the incident.
12. Rambo required 2 trips to the veterinarian, which had a total cost of \$324.84.
13. Both parties say that their dogs had never been aggressive in the past. There is no evidence to suggest otherwise. Both dogs were regular visitors to the off-leash area, although they had not met before. There is no evidence that either of them had been involved in any previous violent incidents or attacks.

14. In British Columbia, there are currently 3 ways for a pet owner to be liable for the actions of their pets:
  - a. occupier's liability.
  - b. the legal concept known as "scienter".
  - c. negligence.
15. The applicant argues that because Piko was the aggressor and bit Rambo, the respondent should have to pay for her veterinary bills. However, the combined effect of these legal principles is commonly referred to as the "one bite rule", in which every dog gets one "free" bite without its owner being liable for any damages. In other words, just because Piko bit Rambo, it does not necessarily mean that Piko's owner has to pay for Rambo's veterinary bills, even if Piko was the aggressor.
16. I find that occupier's liability does not apply to this dispute because the incident occurred on public land.
17. For scienter to apply, the applicant must prove that Piko had a propensity to bite other dogs and that the owner knew about that propensity. As discussed above, there is no evidence that the respondent had any reason to believe that Piko had a propensity to bite other dogs before this incident. Therefore, scienter does not apply.
18. To succeed in negligence, the applicant must prove that the respondent failed to take reasonable care to prevent the incident from occurring. However, there is no evidence to suggest that the respondent should have known that Piko was dangerous. Piko was a regular visitor to the off-leash area and had no history of aggressive behaviour. Therefore, I find that it was reasonable for the respondent to allow Piko to attend the off-leash park with his sons, the eldest of whom was in his mid-teens.

19. In summary, I find that I do not need to determine what caused Piko to bite Rambo or which dog was the aggressor. Even if Piko was the aggressor, there is no evidence that he had been aggressive or violent in the past. In the absence of that evidence or other evidence to suggest that the respondent was negligent, I find that the respondent is not liable for Rambo's injuries.

20. I dismiss the applicant's claims.

21. Under section 49 of the Act, and tribunal rules, the tribunal will generally order an unsuccessful party to reimburse a successful party for tribunal fees and reasonable dispute-related expenses. I see no reason in this case not to follow that general rule. I dismiss the applicant's claim for tribunal fees and dispute-related expenses.

## **ORDER**

22. I dismiss the applicant's claims, and this dispute.

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Eric Regehr, Tribunal Member