



Civil Resolution Tribunal

Date Issued: September 4, 2020

File: SC-2020-003209

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Coast to Coast Bully Rescue Society v. Hibbs-Inglis*, 2020 BCCRT 993

B E T W E E N :

COAST TO COAST BULLY RESCUE SOCIETY

APPLICANT

A N D :

AMANDA HIBBS-INGLIS

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Chad McCarthy

INTRODUCTION

1. This dispute is about an agreement for care and ownership of a pet dog named Evi, previously named Sierra. The applicant, Coast to Coast Bully Rescue Society (Coast), says it gave the respondent, Amanda Hibbs-Inglis, possession of Coast's dog Evi under a "foster to adopt" contract. Coast says that Ms. Hibbs-Inglis broke the contract, and that Evi remains Coast's property. Coast seeks an order for Evi's

return, as set out in the contract, and in exchange is willing to refund the \$550 Ms. Hibbs-Inglis paid under the contract.

2. Ms. Hibbs-Inglis says she fulfilled the contract's conditions, so she is now Evi's rightful owner and is entitled to keep Evi. She denies Coast's claims.
3. In this dispute, Coast is represented by an employee or principal, HB. Ms. Hibbs-Inglis is self-represented.

JURISDICTION AND PROCEDURE

4. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The tribunal has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). The CRT's mandate is to provide dispute resolution services accessibly, quickly, economically, informally, and flexibly. In resolving disputes, the CRT 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.
5. The CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. This dispute involves an "it said, she said" scenario in some respects, with each side calling into question the credibility of the other. Credibility of witnesses cannot be determined solely by the test of whose personal demeanour appears to be the most truthful in a courtroom or CRT proceeding. In the decision *Yas v. Pope*, 2018 BCSC 282, the court recognized that oral hearings are not necessarily required where credibility is in issue. Keeping in mind that the CRT's mandate includes proportionality and a speedy resolution of disputes, I find I can properly assess and weigh the written evidence and submissions before me, and that an oral hearing is not necessary. Therefore, I decided to hear this dispute through written submissions.
6. The CRT 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 CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.

7. Where permitted by section 118 of the CRTA, in resolving this dispute the CRT may order a party to do or stop doing something, pay money or make an order that includes any terms or conditions the CRT considers appropriate. Section 118 says the CRT may resolve a claim for the recovery of personal property, which is what Evi is under the law, as described below. So, I find that Coast's claim for Evi's return is within the CRT's jurisdiction.
8. Coast says that it was required to reimburse Ms. Hibbs-Inglis for Evi's spaying, but that it withheld that payment pending the outcome of this CRT decision. As Ms. Hibbs-Inglis did not counterclaim for that reimbursement, I make no decision about it.

ISSUE

9. Did Ms. Hibbs-Inglis break the contract with Coast for Evi's care and adoption, and if so, what is the appropriate remedy?

EVIDENCE AND ANALYSIS

10. In a civil proceeding like this one, Coast, as the applicant, must prove its claim on a balance of probabilities. I have read all the submitted evidence, but I refer only to the evidence I find relevant to provide context for my decision.
11. The law considers pets to be personal property: *Brown v. Larochelle*, 2017 BCPC 115. This dispute involves a contract to transfer Evi's ownership from Coast to Ms. Hibbs-Inglis, if certain conditions were met.
12. The background of this dispute is that starting in 2019, HB provided dog-walking services for Ms. Hibbs-Inglis' 2 other dogs, in return for Ms. Hibbs-Inglis providing child care services for HB. This arrangement ceased in about March 2020. Although

the parties suggest that this arrangement had some bearing on Evi's adoption from Coast, I find that is not supported on the evidence before me.

13. Ms. Hibbs-Inglis took delivery of Evi on February 1, 2020, and at the same time she signed a "foster to adopt" contract with Coast. Evi was 8 weeks old on that date. As described below, I find the contract said that Coast would still own Evi for a period of up to 4 months while she was in Ms. Hibbs-Inglis' care. Evi's ownership would transfer to Ms. Hibbs-Inglis if she fulfilled the contract's terms by the time Evi was 6 months old.
14. Coast had few obligations under the contract, but Ms. Hibbs-Inglis agreed to:
 - a. Provide Evi with adequate food, shelter, water, and veterinary care.
 - b. Enrol Evi in force-free puppy classes.
 - c. Have Evi under her control when not on her property, but not tethered or chained.
 - d. Have Evi wear "proper identification" on a collar tag "at all times."
 - e. Use only force-free training methods with Evi.
 - f. Give Coast visitation rights to ensure that the terms of the agreement were being met. If they were not being met, and Evi appeared to be in "unsatisfactory condition", Ms. Hibbs-Inglis agreed to immediately release the dog to Coast's custody.
 - g. Contact Coast, and possibly surrender Evi to Coast, if she could no longer care for Evi.
 - h. Have Evi spayed by 6 months of age.
15. The contract said Evi remained Coast's property until it was proven Evi had been spayed by 6 months of age, which I find would be by early June 2020. If Evi was not spayed by that age, Ms. Hibbs-Inglis was required to immediately return Evi to Coast. Near the end, the contract said that "failure to perform the foregoing

agreement” would be a breach of contract, requiring Evi to be returned to Coast’s care. Ms. Hibbs-Inglis signed the contract and acknowledged that she agreed to and understood its terms and conditions.

16. I find the contract does not contain time limits or deadlines, apart from the obligation to spay Evi by 6 months of age. To show what the parties agreed to under the contract, Coast submitted witness statements from two other customers who reportedly agreed to the same “foster to adopt” contracts with Coast. I find both witnesses said that they fulfilled the contract’s terms and had their pets spayed or neutered by the age of 6 months, upon which Coast immediately transferred full pet ownership to the customers. The parties do not dispute, and I find, that full ownership of Evi would transfer to Ms. Hibbs-Inglis when Evi was spayed by the age of 6 months, if the other contract requirements had also been fulfilled.
17. However, Coast alleges that Ms. Hibbs-Inglis failed to perform the contract and must return Evi, which is still Coast’s property. Specifically, Coast says that Ms. Hibbs-Inglis failed to provide adequate water, to provide sufficient supervision, to have Evi wear an ID tag, and to allow visits with Evi. Coast also suggests Evi was not in satisfactory condition. I note that the contract did not specify what “adequate” water was, or identify any guidelines or standards that must be followed. The contract also did not say who would determine whether Ms. Hibbs-Inglis fulfilled her obligations.
18. Coast suggests that Ms. Hibbs-Inglis performed some of her obligations only after Coast requested Evi’s return in April 2020, such as puppy classes and spaying. I find nothing turns on this because the parties agree, and the evidence shows, that Ms. Hibbs-Inglis completed the required puppy classes and spaying before Evi was 6 months old. I find Ms. Hibbs-Inglis fulfilled those contractual obligations.
19. Many of Coast’s breach of contract allegations involve Ms. Hibbs-Inglis allegedly providing inadequate supervision or companionship to Evi. Coast says that Ms. Hibbs-Inglis often left Evi with her other dogs and no supervision, and that on March 7, 2020 she waited until the last minute to arrange care for Evi when she went out of

town overnight. I find the contract did not require Ms. Hibbs-Inglis to provide any amount of supervision or companionship to Evi while the dog was on her property. The applicable obligations were to provide adequate food, shelter, water, and veterinary care, and that Evi must appear to be in satisfactory condition. I find that Coast wrote the contract, which was almost entirely for Coast's benefit, but Coast chose not to add any terms requiring Ms. Hibbs-Inglis to provide supervision or companionship to Evi at home.

20. Further, even if supervision was a contractual requirement, I find Ms. Hibbs-Inglis arranged adequate March 7, 2020 overnight care for Evi with her usual dog walker, HB, and another friend. March 7, 2020 text correspondence with Ms. Hibbs-Inglis shows HB raised no concerns about Evi's care at the time. Beyond this, the evidence only contains anecdotal text messages from Ms. Hibbs-Inglis' neighbour saying that Evi and the other dogs were left out on her porch "all day," without saying exactly when, or if anyone was home at those times. So, I find the evidence does not support unreasonably inadequate supervision in any event.
21. Coast says that Ms. Hibbs-Inglis failed to provide adequate water for Evi, and that she withheld water for house training purposes. The evidence shows that HB observed empty dog food and water dishes at Ms. Hibbs-Inglis' house, but Ms. Hibbs-Inglis says her dogs immediately ate and drank everything she put in front of them, and that she gave Evi water every 2 hours. I find the evidence does not show that anyone observed an ongoing lack of access to water.
22. Coast provided an undated letter from Dr. Davicioni, a veterinarian. It is not clear whether Dr. Davicioni ever examined Evi. Dr. Davicioni recommended that water be left out for dogs at all times, and that it was medically inappropriate to withhold water to house train a young puppy. However, I find the contract did not require Ms. Hibbs-Inglis to leave out water at all times, only that she provide adequate water. I find that Ms. Hibbs-Inglis regularly provided water for Evi. Although it appears the water ran out on occasion, I find the evidence does not sufficiently demonstrate that Ms. Hibbs-Inglis withheld access to water, endangering Evi's health. As discussed

below, I find none of Ms. Hibbs-Inglis's actions resulted Evi experiencing dehydration or other health problems. I find Ms. Hibbs-Inglis fulfilled the contract's requirement to provide adequate water.

23. Ms. Hibbs-Inglis submitted Evi's veterinary chart notes and a letter from Dr. Peterson, her veterinarian. Dr. Peterson said that Evi's May 1, 2020 medical exam was unremarkable, apart from a previously diagnosed heart murmur. Dr. Peterson also said that his medical records confirmed that Evi otherwise appeared healthy. I find Evi's chart notes, beginning in February 2020, showed that there was no dehydration, and did not suggest that Evi was in an unsatisfactory condition or that she lacked appropriate food, shelter, or water. The chart notes show Evi visited the veterinarian several times for immunizations and other care.
24. Coast also says that early in Ms. Hibbs-Inglis' care of Evi, she cut 2 of Evi's claws too close, causing an injury. Having reviewed the evidence, I find this was an accident, and that Ms. Hibbs-Inglis sought HB's assistance following the injury. The parties also say that the BC Society for the Prevention of Cruelty to Animals (SPCA) attended Ms. Hibbs-Inglis' residence in response to a third-party complaint, but agree that the SPCA did not take possession of Evi, or require her to be given to anyone else. No SPCA evidence was submitted. On balance, I do not find that Evi was in an "unsatisfactory condition" while under Ms. Hibbs-Inglis' care, and I find she satisfied that obligation under the contract.
25. Overall, on the evidence before me, I find Ms. Hibbs-Inglis fulfilled the contractual obligation to provide adequate food, shelter, water, and veterinary care, and that Evi remained in satisfactory condition while in her possession.
26. Turning to identification requirements, Coast provided several photos that it says were from Ms. Hibbs-Inglis' social media accounts, showing Evi with no collar or ID tag. Coast says this is a breach of the contract.
27. Did Ms. Hibbs-Inglis fail to perform her obligation for Evi to wear an ID tag collar? The contract said that Ms. Hibbs-Inglis would have Evi wear an ID tag collar "at all

times.” But Evi had no collar or ID tag when Coast transferred Evi to Ms. Hibbs-Inglis on February 1, 2020, or for many days afterward. More than 2 weeks later, HB purchased an ID tag for Evi and gave it to Ms. Hibbs-Inglis. Yet Coast does not suggest that any failure to wear an ID tag during these first weeks was serious enough to require Evi’s return to Coast, and Coast did not seek Evi’s return at that time.

28. I find all the photos of Evi without a collar were taken indoors and appear to be at Ms. Hibbs-Inglis’ residence. The photos in evidence of Evi outdoors show her with a collar and ID tag. The parties do not dispute that the intent of the ID tag requirement was that Evi could be returned if she escaped and became lost. The evidence does not show that the risk of Evi escaping from inside Ms. Hibbs-Inglis’ residence was more than minimal. Further, Coast admits that Evi had an implanted “microchip” that would allow her to be identified and returned to her owner if she was lost. I find the evidence shows only a few occasions when Evi was without a collar ID tag, which occurred only at home and indoors, without any reasonable prospect of escape, and with an identifying microchip. On balance, I find that Ms. Hibbs-Inglis reasonably and adequately complied with the contract’s ID tag requirements in the circumstances.
29. Ms. Hibbs-Inglis admits that, during one discussion with HB, she suggested that Coast should take back Evi if HB did not think she was capable of caring for Evi. Coast did not take back Evi at the time. I find this statement by Ms. Hibbs-Inglis was only a heated utterance during a difficult conversation, rather than an actual request that Coast repossess Evi.
30. Coast also says that after it demanded Evi’s return, Ms. Hibbs-Inglis refused to allow Coast further visitation access to verify her compliance with the contract. I find the correspondence between the parties shows that Ms. Hibbs-Inglis did not want HB or a second Coast individual to visit her home, because their relationship had broken down, but was willing to allow visitation from a third party. I find this was

reasonable in the circumstances, and that Ms. Hibbs-Inglis did not fail to fulfill the contract's visitation obligation.

31. Having weighed all the evidence and having considered the parties' arguments, I find that Coast has not met its burden of showing that Ms. Hibbs-Inglis failed to adequately perform her obligations under the contract. I find that Ms. Hibbs-Inglis fulfilled the contractual obligations, including that Evi be spayed by 6 months of age, and as a result full ownership of Evi transferred to Ms. Hibbs-Inglis. So, there is no basis to order Evi's return to Coast under the contract. I dismiss Coast's claim.

CRT FEES AND EXPENSES

32. Under section 49 of the CRTA and CRT rules, the CRT will generally order an unsuccessful party to reimburse a successful party for CRT fees and reasonable dispute-related expenses. I find Ms. Hibbs-Inglis was successful, but she paid no fees. Ms. Hibbs-Inglis claims a \$207 expense for a May 1, 2020 veterinary "wellness check" of Evi. However, the Dispute Notice for this CRT dispute was not issued until May 6, 2020. I find the wellness check was not a CRT dispute-related expense, but was obtained for pre-CRT dispute negotiations between the parties. I decline to order reimbursement of that expense.

ORDER

33. I dismiss Coast's claim, and this dispute.

Chad McCarthy, Tribunal Member