



# Civil Resolution Tribunal

Date Issued: December 4, 2020

File: SC-2020-002744

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Godfrey v. Sahabi*, 2020 BCCRT 1374

**B E T W E E N :**

LISA GODFREY, LIBERTY BENEDICT, JAMES MELBOW, and  
DANIELLE WILSON

**APPLICANTS**

**A N D :**

HASTI SAHABI also known as KRYSTAL NONE

**RESPONDENT**

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## **REASONS FOR DECISION**

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Tribunal Member:

David Jiang

## **INTRODUCTION**

1. This dispute is about a dog adoption. The respondent, Hasti Sahabi also known as Krystal None, adopted a dog from its owner, the applicant Danielle Wilson. The

applicants, Liberty Benedict and Lisa Godfrey, facilitated the adoption. The fourth applicant is James Melbow, whose role is unexplained.

2. The applicants seek an order for Ms. Sahabi to give the dog to Ms. Benedict. As justification, they say that Ms. Sahabi owes them adoption and customs fees of \$381.50. They also allege that Ms. Sahabi is not properly taking care of her dog, Pete.
3. Ms. Sahabi disagrees. She submits Pete is well cared for. She says she does not owe the adoption fee because the applicants did not mention it until the day Ms. Sahabi took ownership of Pete. She also says she paid Ms. Wilson the customs fee.
4. Ms. Godfrey represents herself and the other applicants. Ms. Sahabi is self-represented.
5. For the reasons that follow, I dismiss the applicants' claims.

## **JURISDICTION AND PROCEDURE**

6. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims brought under section 118 of the *Civil Resolution Tribunal Act* (CRTA). Section 2 of the CRTA states that 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 the dispute's parties that will likely continue after the CRT process has ended.
7. Section 39 of the CRTA says the CRT has discretion to decide the format of the hearing, including by writing, telephone, videoconferencing, email, or a combination of these. Here, I find that I am properly able to assess and weigh the documentary evidence and submissions before me. Further, bearing in mind the CRT's mandate that includes proportionality and a speedy resolution of disputes, I find that an oral hearing is not necessary in the interests of justice.

8. Section 42 of the CRTA says 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.
9. 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.

### ***Preliminary Issue – The Applicants’ Request to Withdraw Dispute***

10. Rule 6.1 of the CRT rules states that a party can request permission to withdraw their claims. A withdrawn dispute can be refiled with the CRT at a later date, subject to the applicable limitation period.
11. Ms. Godfrey asked CRT staff to withdraw the claim, and I find her request was made on behalf of all the applicants. Ms. Sahabi wants this dispute to proceed.
12. Some background is necessary. The applicants chose Ms. Godfrey to provide evidence and submissions. She did not, despite numerous reminders from CRT staff between June 2 and September 2, 2020. The CRT also extended the deadline for the applicants to provide evidence (from June 16) and submissions (from July 9, 2020) to September 2, 2020. Ms. Godfrey did not request the extensions.
13. I find that the applicants were aware of the deadlines and extensions. CRT staff explained the situation by phone to Ms. Benedict on July 28 and August 25, 2020. Ms. Benedict confirmed she had spoken to Ms. Godfrey and had asked her to contact the CRT. In an August 25, 2020 email, Ms. Godfrey confirmed with CRT staff that she had received the previous emails about providing evidence and submissions.
14. On August 28, 2020, Ms. Godfrey emailed CRT staff and asked to withdraw the claim. Ms. Godfrey wrote that she was not sure she could submit evidence and submissions before the final deadline of September 2, 2020. She did not explain why. This was her last message to the CRT.

15. Rule 6.1(5) says that, when considering a request to pursue a withdrawn claim the CRT may consider the following:
- a. The reason for the withdrawal,
  - b. Any prejudice to the other parties,
  - c. Whether the limitation period for the claim has expired,
  - d. The tribunal's mandate,
  - e. Whether it is in the interests of justice and fairness, and
  - f. Any other factors the tribunal considers appropriate.
16. In *Grand-Clement v. The Owners, Strata Plan KAS2467*, 2017 BCCRT 45, the CRT Chair wrote that an applicant's request for withdrawal will generally be granted. However, this general rule can be rebutted where the respondent demonstrates prejudice significant enough to outweigh the applicant's interest in deciding whether and how to pursue their own dispute.
17. In reaching her decision, the CRT Chair referred to the Labour Relations Board's policy on withdrawal applications. It states that where real prejudice can be shown by the respondent, the applicant will be given the opportunity to reply to the matters raised in the respondent's submission. The application to withdraw will then be considered by weighing the potential prejudice to the respondent against the case put forward by the applicant, with regard to section 2 of the *Labour Relations Code*. That section generally sets out how duties under the *Labour Relations Code* should be carried out. A parallel can be drawn between this section and CRTA section 2, which outlines the CRT's mandate, discussed below.
18. Although not binding, I find the reasoning in *Grand-Clement* persuasive and follow the procedure described here. I find that Ms. Sahabi has demonstrated ongoing prejudice. In her evidence, she provided screenshots showing someone placed an ad on Craigslist stating that Ms. Sahabi stole the dog. It also shows what I find is likely

a picture of her and her fiancé, MW. Strangers also messaged Ms. Sahabi about the dog. In one Facebook message a person wrote, “Give the dog back you disgusting freak”. In a separate series of Facebook messages, another person told Ms. Sahabi, “Rope yourself”. Both senders also directed profanity at Ms. Sahabi, which I need not repeat here.

19. Ms. Sahabi says, and I find, that she continues to receive messages and emails accusing her of stealing the dog. Ms. Sahabi submits that a decision now would alleviate some of the prejudice described above.
20. CRT staff provided the applicants an opportunity to review and reply to these submissions by emailing Ms. Godfrey. She did not respond.
21. Given the above, I find that this is one of the rare instances where the applicants’ request for withdrawal should not be granted. Ms. Sahabi’s submissions are undisputed and supported by evidence. I weigh them heavily.
22. Against that, I find the applicants will sustain prejudice if I deny their request. They will be unable to start another proceeding against Ms. Sahabi. However, I place less weight on this factor for 2 reasons.
23. First, Ms. Sahabi provided compelling evidence about the adoption and customs fees and Pete’s condition. I find that this dispute can be decided fairly without the applicants’ participation. The CRT’s mandate includes providing dispute resolution services in a speedy and economical manner, while applying principles of law and fairness. I find that denying the applicant’s request to withdraw their claims would be consistent with the CRT’s mandate in these circumstances.
24. Second, the applicants did not explain their lack of participation in this dispute. Ms. Godfrey only expressed some difficulty in meeting CRT deadlines, which I note were extended. She did not suggest that the 3 other applicants had any interest in taking over for her. As such, I find the applicants have failed to meaningfully put forward a case that I can weigh against the established prejudice to Ms. Sahabi.

25. For those reasons, I deny the applicants' withdrawal request.

## **ISSUES**

26. The issues in this dispute are as follows:

- a. Did Ms. Sahabi agree to pay the applicants the claimed adoption and customs fees?
- b. If so, did Ms. Sahabi breach the agreement, and what is the appropriate remedy?

## **EVIDENCE AND ANALYSIS**

27. In a civil proceeding like this one, the applicants must prove their claims on a balance of probabilities. I have read all the evidence and submissions but only refer to them as necessary to explain my decision. As noted above, only Ms. Sahabi provided evidence and submissions to the CRT.

28. The background facts are outlined in several Facebook messages, emails, and text messages. Ms. Sahabi joined a Facebook group run by Ms. Benedict. From there she was directed to a Facebook page for the Sula Society (Sula). Sula advertises itself on Facebook as a dog rescue organization. Ms. Godfrey is its employee or principal.

29. On February 15, 2020, Ms. Sahabi exchanged several Facebook messages with Sula's representative. Sula's representative replied that the dog Pete needed a new home. Pete was in Mexico at the time. Sula advised that Pete was "someone else's rescue". Ms. Godfrey put Ms. Sahabi in touch with Pete's owner, Ms. Wilson.

30. Ms. Sahabi and Ms. Wilson exchanged several text messages from February 16 to 24, 2020. They show that Ms. Wilson was in Mexico at the time but intended to fly back home to BC soon. Ms. Wilson agreed to bring Pete on her flight and transfer ownership to Ms. Sahabi. In exchange, Ms. Sahabi would pay a customs fee. Based on the text messages, I find it was \$30.

31. Ms. Wilson flew to BC and handed Pete over to Ms. Sahabi on February 24, 2020. The text messages indicate both parties forgot about the customs fee at the time.
32. That same day, Ms. Godfrey texted Ms. Sahabi to request payment of an adoption fee of \$350. I find the adoption and customs fees add up to \$380, rather than \$381.50 as alleged. I find it clear from the text messages that the parties (including Ms. Wilson) did not previously discuss the adoption fee. In her reply text, Ms. Sahabi said that Ms. Godfrey had not mentioned this fee, nor was it posted on Sula's website. There is no indication that Sula mentioned it in any of its materials.
33. Consistent with my conclusion, on March 3, 2019, Ms. Godfrey messaged Ms. Sahabi. She wrote that "the whole adoption fee was a mistake on my part". She added, "I understand if the fee is not sent and that is something I have to deal with, as it was my error".
34. Ms. Godfrey's relationship with Ms. Sahabi soon soured. From March 4 to 7, 2019, Ms. Godfrey expressed concerns about Pete's health and housing situation. She also said Ms. Sahabi still owed the adoption and customs fee. Ms. Godfrey asked if Ms. Sahabi would agree to relinquish Pete to Ms. Benedict. Ms. Sahabi said she would restrict contact with Ms. Godfrey. This dispute started soon thereafter.

***Issue #1. Did Ms. Sahabi agree to pay the applicants the claimed adoption and customs fees?***

35. The parties' obligations are governed by the law of contracts. The basic principles of the formation and interpretation of contracts are laid out in *Shaw Production Way Holdings Inc. v. Sunvault Energy, Inc.*, 2018 BCSC 926 at paragraphs 138 to 152. That case says that the individual understandings or beliefs of the parties about the terms of a contract are irrelevant. Instead, what matters is whether a reasonable person in any of the parties' situation would have believed and understood that the other party was consenting to identical terms.

36. Based on the February 2020 text messages between Ms. Wilson and Ms. Sahabi, I find the following. Ms. Wilson agreed to give Pete to Ms. Sahabi. Ms. Sahabi agreed in turn to pay the customs fee of \$30. The text messages do not show that Ms. Sahabi agreed to any other specific obligation about Pete. At most, I find that Ms. Sahabi represented that she would treat Pete's skin condition as it is a recurring subject in the February 2020 text messages. However, the applicants have not alleged that Ms. Sahabi made any negligent or fraudulent misrepresentations. I therefore do not need to address such claims in this dispute.
37. I find that Ms. Godfrey and Ms. Sahabi did not enter into a binding agreement. In the days leading up to Pete's change of ownership, Ms. Godfrey did not mention any adoption fee or expenses that required reimbursement. As noted above, Sula's representative said Pete was "someone else's rescue". Pete was not Sula's to give. I find a reasonable person would conclude that Ms. Godfrey simply referred Ms. Sahabi to Ms. Wilson at no charge, in furtherance of Sula's organizational goals.
38. Ms. Godfrey also placed Ms. Sahabi in a difficult position by first requesting the fee mere hours before Ms. Wilson arrived with Pete. Ms. Sahabi protested to this. I find a reasonable person would conclude that in such circumstances, the parties never agreed on the fee. Ms. Godfrey appeared to acknowledge this herself when she wrote that she would "understand" if Ms. Sahabi did not pay the adoption fee.
39. There is no evidence that Ms. Sahabi contracted with either of the other applicants, Ms. Benedict or Mr. Melbow.
40. The applicants raised concerns about Pete's wellbeing. However, I have found that the applicants did not enter into a binding contract with Ms. Sahabi about this. Even if they did, my decision would not change, as I find that Ms. Sahabi took reasonable care of Pete. Invoices and emails show Ms. Sahabi took Pete to a veterinarian on March 23, May 5, and June 8, 2020. Pete's veterinarian, Dr. MH, provide a June 8, 2020 letter about Pete's health. He wrote that Pete was treated for ringworm, dermatitis, and provided vaccination shots. Dr. MH added that Pete made a "nice



recovery” because of the treatment provided and “owner compliance and regular follow up visits”. He concluded that Pete was “currently doing well and is healthy”.

41. I dismiss the claims of Ms. Godfrey, Ms. Benedict, and Mr. Melbow. I consider Ms. Wilson’s claim below.

***Issue #2. If so, did Ms. Sahabi breach the agreement, and what is the appropriate remedy?***

42. The only remaining issue is whether Ms. Sahabi failed to pay the customs fee of \$30 and if so, what remedy is appropriate. Ms. Sahabi says she paid it to Ms. Wilson in cash at some point. While I find this submission vague, the applicants provided no evidence or arguments to refute this, so I find in favour of Ms. Sahabi. I dismiss Ms. Wilson’s claim.

43. If I am wrong and Ms. Sahabi failed to pay the customs fee, I would still dismiss Ms. Wilson’s claim. Ms. Wilson asked for Pete’s return rather than payment of any amounts owing. This is not the appropriate remedy. I reach this conclusion because the normal remedy for breach of contract is damages. Damages for breach of contract are meant to put the innocent person in the same position as if the contract had been performed. See *Water’s Edge Resort v. Canada (Attorney General)*, 2015 BCCA 319 at paragraph 39. In this case, if the contract had been performed, Ms. Sahabi would have paid \$30 to Ms. Wilson and Pete would stay with Ms. Sahabi. Ms. Wilson would be entitled to payment of the \$30 owing. She has not asked for that.

44. In summary, I dismiss the applicants’ claims, including the claims of Ms. Wilson.

**CRT FEES, EXPENSES AND INTEREST**

45. 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.

46. Ms. Sahabi is the successful party. She did not pay any CRT fees and claimed no dispute-related expenses, so I order none for any party.

## **ORDERS**

47. I dismiss the applicants' claims and this dispute.

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David Jiang, Tribunal Member