



# Civil Resolution Tribunal

Date Issued: December 21, 2020

File: SC-2020-006095

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Wall v. White*, 2020 BCCRT 1448

B E T W E E N :

CYNTHIA WALL

**APPLICANT**

A N D :

REBEKKA WHITE

**RESPONDENT**

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## REASONS FOR DECISION

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Tribunal Member:

Sherelle Goodwin

## INTRODUCTION

1. The applicant, Cynthia Wall, says the respondent, Rebekka White, stole her puppy (Piglet). Ms. Wall originally claimed \$1,350 for the cost of Piglet and an order that Ms. White return Piglet to Ms. Wall. However, Ms. Wall has since retrieved Piglet and withdrawn her claim for Piglet's purchase price and return.

2. Ms. Wall now claims \$595 in travel costs to retrieve Piglet. She says she would not have had to pay those expenses if Ms. White had not stolen Piglet.
3. Ms. White says she was justified in taking the puppy for its own welfare. She did not respond to Ms. Wall's claim for travel costs.
4. Both parties are self-represented.

## **JURISDICTION AND PROCEDURE**

5. 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.
6. 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.
7. 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.
8. 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.

## ISSUE

9. The issue in this dispute is whether Ms. White must reimburse Ms. Wall her travel costs and, if so, how much?

## EVIDENCE AND ANALYSIS

10. In a civil claim such as this the applicant, Ms. Wall, must prove her claim on a balance of probabilities. Ms. White did not provide any evidence or submissions, despite being given the opportunity to do so. I have reviewed all evidence and submissions provided but only refer to that which is necessary to explain my decision.
11. Ms. White had a litter of puppies and sold one (Piglet) to Ms. Wall, around March 15, 2020. On July 25, 2020 Ms. White went to Ms. Wall's house and took Piglet from Ms. Wall's deck. None of this is disputed.
12. The tort of conversion involves the wrongful interference with another person's property, such as taking, using, or destroying them in a way that is inconsistent with the person's ownership rights (see *Champ's Mushrooms v. Guo*, 2018 BCSC 650, citing *Ast v. Mikolas*, 2010 BCSC 127). Did Ms. Wall commit the civil tort of conversion in taking Piglet?
13. Ms. White says she was justified in taking Piglet. First, she says she took Piglet for the dog's own welfare. Ms. White says Piglet had no access to shade, food, or water and was covered in her own feces. Ms. Wall denies this. There is no evidence before me, such as the photos Ms. White refers to, which shows that Piglet was left in poor conditions. Even if there were, I am not satisfied that would give Ms. White the right to take Piglet out of Ms. Wall's yard without consent.
14. Second, Ms. White says Ms. Wall had agreed to have Piglet spayed but did not do so. I infer Ms. White means she was entitled to take Piglet back because Ms. Wall breached their agreement. Ms. Wall does not deny that she agreed to spaying Piglet and so I accept that is true. However, neither party submitted any written agreement about Piglet's purchase. Neither did either party make submissions about any agreed

upon timeline for Piglet to be spayed, or other details. So, I find Ms. White has not proven that Ms. Wall breached her agreement to spay Piglet. Again, even if Ms. Wall did breach the agreement, I am not satisfied that would give Ms. White the right to take Piglet back.

15. On balance, I find Ms. White was not legally entitled to take Piglet from Ms. Wall's home. Again, I find Ms. White has not proven her defence that Piglet was mistreated. I find Ms. White stole Piglet or, in civil law, committed the tort of conversion.
16. I now turn to consider Ms. Wall's remedies. I agree with Ms. Wall that Ms. White should pay Ms. Wall her reasonable expenses in retrieving Piglet. I find Ms. Wall would not have had those expenses if Ms. White had not taken Piglet in the first place. In other words, I find the expenses are a reasonably foreseeable consequence of Ms. White's actions.
17. Ms. Wall says she learned that Piglet was with Ms. White's family member (JW) in Edmonton. Ms. Wall submitted a screen shot of text messages from "Bekky", who I infer is Ms. White. In the messages Ms. White asks why the recipient would admit to having the dog and that she should have given the dog to someone else. I infer the text messages are from Ms. White to JW. I find they do not prove Piglet was in Edmonton, however, because there is no geographic information on the messages.
18. Ms. Wall submitted a screen shot confirming a hotel reservation in Edmonton for September 5, 2020. Based on that and Ms. Wall's undisputed submissions, I accept that Piglet ended up in Edmonton. I accept that Ms. Wall travelled from Kelowna to Edmonton to retrieve Piglet. So, I find Ms. White must reimburse Ms. Wall her travel costs.
19. Ms. Wall claims \$200 for fuel, \$125 for food, and \$270 for the hotel. Despite the screenshot confirming the hotel reservation, Ms. Wall provided no receipts or other evidence to show she spent money on these things. However, as I am satisfied that Ms. Wall had some expenses, and keeping in mind the CRT's mandate of flexibility

and efficiency, I find Ms. Wall is entitled to reimbursement of \$200 for travel expenses, on a judgment basis.

20. The *Court Order Interest Act* applies to the CRT. Ms. Wall is entitled to pre-judgment interest on the \$200 travel costs from September 5, 2020, the date of travel, to the date of this decision. This equals \$0.27.
21. 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 see no reason in this case not to follow that general rule. I find Ms. Wall is entitled to reimbursement of \$125 in CRT fees.
22. Ms. Wall claims \$225 for legal costs but provided no proof of payment or any evidence that she sought legal advice or assistance. Further, even if Ms. Wall had proven that she had paid for legal advice I would not order reimbursement of that expense. CRT rule 9.5(3) says that the CRT will not order one party to pay another party's legal fees in a small claims dispute, except in extraordinary circumstances, which I find do not exist here. The dispute did not involve an unusually large amount of evidence or issues of unusual complexity. Further, there is no evidence that Ms. White engaged in reprehensible conduct during the dispute process, as described in the non-binding but persuasive decision of *Parfitt et al. v. The Owners, Strata Plan VR 416 et al*, 2019 BCCRT 330.

## ORDERS

23. Within 30 days of the date of this order, I order Ms. White to pay Ms. Wall a total of \$325.27, broken down as follows:
  - a. \$200 in travel costs,
  - b. \$0.27 in pre-judgment interest under the *Court Order Interest Act*, and
  - c. \$125 in CRT fees.
24. Ms. Wall is entitled to post-judgment interest, as applicable.

25. Under section 48 of the CRTA, the CRT will not provide the parties with the Order giving final effect to this decision until the time for making a notice of objection under section 56.1(2) has expired and no notice of objection has been made. The time for filing a notice of objection is 28 days after the party receives notice of the CRT's final decision. The Province of British Columbia has enacted a provision under the *COVID-19 Related Measures Act* which says that statutory decision makers, like the CRT, may waive, extend or suspend mandatory time periods. This provision is expected to be in effect until 90 days after the state of emergency declared on March 18, 2020 ends, but the Province may shorten or extend the 90-day timeline at any time. A party should contact the CRT as soon as possible if they want to ask the CRT to consider waiving, suspending or extending the mandatory time to file a Notice of Objection to a small claims dispute.
26. Under section 58.1 of the CRTA, a validated copy of the CRT's order can be enforced through the Provincial Court of British Columbia. A CRT order can only be enforced if it is an approved consent resolution order, or, if no objection has been made and the time for filing a notice of objection has passed. Once filed, a CRT order has the same force and effect as an order of the Provincial Court of British Columbia.

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Sherelle Goodwin, Tribunal Member