



Civil Resolution Tribunal

Date Issued: December 23, 2021

File: SC-2021-003857

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Sin v. CTRS Cat Therapy and Rescue Society*, 2021 BCCRT 1339

B E T W E E N :

PUI SIN

APPLICANT

A N D :

CTRS CAT THERAPY AND RESCUE SOCIETY

RESPONDENT

REASONS FOR DECISION

Tribunal Member:

Laylí Antinuk

INTRODUCTION

1. This is a dispute about a cat named Coco.
2. The applicant, Pui Sin (also known as Jenny Sin), wants the respondent, CTRS Cat Therapy and Rescue Society (Society), to return Coco to her. Ms. Sin says the Society is wrongfully withholding Coco.

3. The Society says Ms. Sin voluntarily surrendered Coco to the Society and that someone else has adopted Coco.
4. Ms. Sin asks me to order the Society to return Coco. She also asks me to order the Society to pay her \$1,000 as compensation for emotional distress.
5. Ms. Sin represents herself. An employee represents the Society.
6. As explained below, I dismiss Ms. Sin's claims.

JURISDICTION AND PROCEDURE

7. These are the formal written reasons of the Civil Resolution Tribunal (CRT). The CRT has jurisdiction over small claims 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 the parties that will likely continue after the CRT process has ended.
8. The CRT has the discretion to decide the format of the hearing. A hearing can occur by writing, telephone, videoconferencing, email, or a combination of these. I have decided that a written hearing is appropriate in this case. I find I am properly able to assess and weigh the documentary evidence and submissions before me. Keeping in mind the CRT's mandate, which includes proportionality and speedy dispute resolution, I see no reason for an oral hearing.
9. The CRT can accept any evidence that it considers relevant, necessary and appropriate, even if the evidence would not be admissible in court. The CRT may also ask questions of the parties and witnesses and inform itself in any other way it considers appropriate.
10. Where permitted under CRTA section 118, the CRT may order a party to pay money, or to do or stop doing something. The CRT may also make an order that includes any terms or conditions it considers appropriate.

ISSUES

11. The issues in this dispute are:

- a. Did Ms. Sin surrender ownership of Coco to the Society? If not, what is the appropriate remedy?
- b. Is Ms. Sin entitled to \$1,000 as compensation for emotional distress?

EVIDENCE AND ANALYSIS

12. As the applicant in this civil proceeding, Ms. Sin must prove her claims on a balance of probabilities (meaning “more likely than not”).
13. I have read all the parties’ evidence and arguments. However, I will refer only to what I find necessary to explain my decision.

Background

14. I begin with the undisputed facts. The evidence shows that in December 2020, Ms. Sin emailed the Society to ask about surrendering her 4-month-old kitten Coco to the Society. In response, the Society said she would need to complete a surrender form, then the Society would find Coco a foster home while it looked for an adopter. Ms. Sin said she would “submit a form once I’ve exhausted all my options.”
15. On April 7, 2021, Ms. Sin emailed a completed surrender form (form) to the Society. Under the form’s heading “Reason for surrender”, Ms. Sin wrote, “Coco is a good kitten with high energy level and needs lots of attention. It is unfortunate that our personal lifestyle is not compatible of having a pet” (all quotes in this decision reproduced as written). Immediately above the owner name and signature line, which Ms. Sin completed, the form states in bold:

I hereby surrender any and all property rights to the animal. I understand that by surrendering my property rights to the animal, the animal will be transferred into custody of Cat Therapy and Rescue. I understand that

once I relinquish the animal, the animal will not be available to be returned unless Cat Therapy and Rescue decides to do so.

16. On April 12, 2021, a Society volunteer picked up Coco from Ms. Sin's home.
17. Then, on April 19, 2021, Ms. Sin emailed the Society saying she deeply regretted her decision to let Coco go and asked, "May I please take Coco back home? ... Please tell me if there is anything I can do to take her back home... I beg you to please consider returning Coco to me."
18. The Society responded by email the same day. It said returning Coco to Ms. Sin would not be in Coco's best interests because Ms. Sin gave Coco up "for reasons that are just normal cat traits." The Society also said when it has returned cats to owners in the past, the owners just end up surrendering the cats again within days, which is stressful for everyone, especially the cat. The Society said, "You chose to give her up so she could find a more suitable home. We now have several interested applicants, all experienced in owning a cat."
19. Ms. Sin wrote back saying she was "not challenging" the Society's decision but asked the Society to reconsider and to give her an exception. Based on the emails in evidence, I find that the Society did not respond until May 3, 2021. At that point, it said Coco had been adopted and would not be returned to Ms. Sin.

Did Ms. Sin surrender ownership of Coco to the Society?

20. I acknowledge that Ms. Sin loves Coco and sincerely wants Coco returned to her. I also acknowledge that this experience has been deeply upsetting for Ms. Sin and has led her to seek professional medical assistance. This is most unfortunate. However, based on the evidence before me, I find that Ms. Sin completed the form and sent it to the Society knowing that it would end her ownership of Coco. My reasons follow.
21. The undisputed evidence shows that Ms. Sin sent the Society a completed form on April 7, 2021 and gave Coco to the Society a few days later. Based on the emails Ms. Sin sent the Society after completing the form, I find it clear that Ms. Sin understood

that she no longer owned Coco. For example, she asked if it would be possible to get updates/photos from the “new owner” once Coco was adopted saying, “I know chances are slim but I thought I would ask.” Additionally, when requesting Coco’s return, Ms. Sin said, “I beg you please consider returning Coco to me” and “I know I’ve made a big mistake but I hope I can be given a second chance. I didn’t realize how important [Coco] has become to me until I lost her.” Ms. Sin also offered to complete an adoption form for Coco. I find that these emails show Ms. Sin clearly understood she did not own Coco anymore.

22. I find it more likely than not that Ms. Sin understood the consequences of completing the form. I do not accept that she thought filling in the form was simply an “application to initiate the rehoming process”, as she submits. Ms. Sin says she thought she would “sign an ownership transfer contract once a new owner is identified.” However, she does not explain why she thought this. Nothing in the evidence suggests that the Society told her this. On the contrary, the undisputed evidence shows the Society simply told her she needed to complete a surrender form, then it would find a foster and an adopter. Additionally, the form itself clearly states that Ms. Sin is surrendering all her property rights to Coco. I do not find Ms. Sin’s arguments persuasive given what the Society told her and what the form itself says.
23. Similarly, I am not persuaded by Ms. Sin’s argument that the lack of a Society representative’s signature on the form misled her into thinking the terms of the form would not be in effect until a Society representative signed it. I find that Ms. Sin’s emails to the Society show she entirely understood (and regretted) the consequences of completing the form and giving Coco to the Society.
24. For the same reasons, I do not accept Ms. Sin’s argument that the form is not legally binding because she typed her signature instead of handwriting it. Again, I find it clear that Ms. Sin herself thought the form was legally binding even though she did not sign it by hand. Additionally, the evidence shows Ms. Sin completed the form and emailed it to the Society from her personal email address. In the circumstances, I find that Ms. Sin’s typed signature has the same force and effect as a handwritten signature.

25. I turn now to the expert opinion evidence from Ms. Sin's clinical psychiatrist. I find that the psychiatrist is qualified to give this expert opinion evidence. Among other things, the psychiatrist says, "Ms. Sin's mental state and capacity to enter into a contractual agreement (and appreciate the consequences of her actions) might have been compromised in Spring 2021." However, I find that the psychiatrist did not see Ms. Sin until July 2021, three months after she completed the form and gave Coco to the Society. So, I find that the psychiatrist was not able to assess Ms. Sin's mental state and capacity at the time she completed the form.
26. Additionally, the psychiatrist says Ms. Sin developed clinical depression "as a result" of the Society's refusal to return Coco. Here, I understand the psychiatrist to say that Ms. Sin developed clinical depression **after** she surrendered Coco to the Society. So, I find that Ms. Sin did not have clinical depression at the time she completed the form and gave Coco to the Society. This means that clinical depression did not impact Ms. Sin's decision-making process at the time of Coco's surrender.
27. Also, the evidence shows that Ms. Sin first contacted the Society about surrendering Coco in December 2020, months before Spring 2021. At that time, Ms. Sin told the Society she could "no longer provide care for" Coco. The psychiatrist does not say anything specific about Ms. Sin's mental state or decision-making capacity in December 2020. With all this in mind, I place limited weight on the psychiatrist's opinion about Ms. Sin's mental state and capacity in April 2021.
28. To summarize, I find that Ms. Sin completed the form and gave Coco to the Society knowing it meant Coco would not be her cat anymore. The form clearly states that Ms. Sin surrenders all property rights to Coco. It says, "once I relinquish the animal, the animal will not be available to be returned." So, I find that the Society owned Coco once Ms. Sin completed the form and gave Coco to the Society. As a result, I dismiss Ms. Sin's claim for Coco's return.
29. Additionally, even if I had found in favour of Ms. Sin, I would not have ordered the Society to return Coco. I say this because the Society says a family adopted Coco. I accept this submission because it is consistent with the emails in evidence. As noted,

on April 19, 2021, the Society told Ms. Sin that several people were interested in adopting Coco. On May 3, 2021, the Society told Ms. Sin that Coco had been adopted. Ms. Sin doubts this, saying she believes that the Society is purposely withholding Coco “for malicious intention.” Nothing in the evidence suggests that the Society is lying about Coco’s adoption. I find the email correspondence establishes that a family has adopted and now owns Coco. So, the Society does not own Coco anymore and has no ability to return Coco to Ms. Sin.

Is Ms. Sin entitled to \$1,000 as compensation for emotional distress?

30. I find that Ms. Sin suffered emotional distress after surrendering Coco to the Society. I accept her psychiatrist’s evidence that she developed clinical depression as a result of her experiences in April 2021. While this is extremely unfortunate, I do not find the Society responsible for Ms. Sin’s emotional distress.
31. As described above, I have found that Ms. Sin voluntarily, intentionally chose to give Coco up for adoption. The evidence shows that Ms. Sin later considered her choice a “big mistake” that she “deeply” regrets. Given this, I find that Ms. Sin herself has recognized that she is at least partially responsible for the feelings of distress she experienced after her separation from Coco.
32. Also, the undisputed text message evidence shows that Ms. Sin described caring for Coco as “mentally stressful”, saying she was “mentally and physically exhausted” and “felt so helpless” with “nobody to count on”. Additionally, Ms. Sin’s psychiatrist says she has a specific clinical disorder (other than clinical depression) and has experienced quite significant symptoms of that disorder “all her life”. I have not named the disorder because it is not relevant, and I want to respect Ms. Sin’s privacy. From this evidence, I find it clear that Ms. Sin experienced emotional and mental distress **prior to** her interactions with the Society. I also find that caring for Coco caused Ms. Sin a certain amount of emotional distress.
33. To summarize, I find that Ms. Sin experienced emotional distress prior to her interactions with the Society and, unfortunately, has continued to experience distress

ever since. I find that the Society is not responsible for this emotional distress. So, I dismiss this aspect of Ms. Sin's claim as well.

34. 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 to depart from the general rule in this case. Ms. Sin was unsuccessful, so I dismiss her claim for reimbursement of CRT fees and dispute-related expenses. The Society did not pay CRT fees and does not claim any dispute-related expenses, so I will not order reimbursement.

ORDER

35. I dismiss Ms. Sin's claims and this dispute.

Laylí Antinuk, Tribunal Member