



Civil Resolution Tribunal

Date Issued: June 29, 2022

File: SC-2021-009687

Type: Small Claims

Civil Resolution Tribunal

Indexed as: *Harrison v. West*, 2022 BCCRT 755

BETWEEN:

AARON HARRISON

APPLICANT

AND:

BROOKLYNN WEST

RESPONDENT

AND:

AARON HARRISON

RESPONDENT BY COUNTERCLAIM

REASONS FOR DECISION

Tribunal Member:

Leah Volkers

INTRODUCTION

1. This dispute is about 3 cats named Fizzgig, Cinnibon and Caboose. The parties lived together as common law partners for over 3 years.
2. The applicant and respondent by counterclaim, Aaron Harrison, says the respondent and applicant by counterclaim, Brooklynn West, did not return Fizzgig to him after the parties separated. Mr. Harrison also says Mx. West left Cinnibon and Caboose with him with no intention to reclaim either of them. Mr. Harrison asks for an order that Mx. West return Fizzgig to him and forgo pursuing ownership of Cinnibon and Caboose. Mr. Harrison also claims \$5,000 as the monetary amount for the above requested order, without further explanation. In submissions, he says the \$5,000 is for care, supplies, and vet bills for the cats, and only if the Civil Resolution Tribunal (CRT) rules in Mx. West's favour.
3. Mx. West says they own all 3 cats. Mx. West filed a counterclaim and asks for orders that Mr. Harrison return Cinnibon and Caboose to Mx. West, cease all claims to the 3 cats, and pay \$2,606.12 for Fizzgig's veterinary care and \$1,889.93 for specialty cat food that Mx. West says would not have been needed if not for the living conditions at Mr. Harrison's home.
4. Mr. Harrison is self-represented. Mx. West is represented by their partner, who is not a lawyer.

JURISDICTION AND PROCEDURE

5. These are the formal written reasons of the 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. Under section 10 of the CRTA, the CRT must refuse to resolve a claim that it considers to be outside the CRT's jurisdiction. A dispute that involves some issues that are outside the CRT's jurisdiction may be amended to remove those issues. I have addressed below the issue of jurisdiction under the *Family Law Act* (FLA).
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.

Withdrawn claim

10. In submissions, Mx. West withdrew their claim for payment of Fizzgig's veterinary fees. So, I find that claim is no longer before me and I have not addressed it in this dispute.

ISSUE

11. The issue in this dispute is whether the CRT has jurisdiction over all the claims in this dispute, and if not, should the CRT refuse to resolve this dispute or any part of it.

EVIDENCE AND ANALYSIS

12. In a civil proceeding like this one, as the applicant, Mr. Harrison must prove his claims on a balance of probabilities (meaning more likely than not). Mx. West bears the same burden for their counterclaim. I have read all the parties' submissions and evidence but refer only to what I find relevant to provide context for my decision.

Does the CRT have jurisdiction over all the claims in this dispute? If not, should the CRT refuse to resolve this dispute or any part of it?

13. The claims in this dispute are about the ownership and possession of 3 cats named Fizzgig, Cinnibon and Caboose. As noted, both parties claim ownership and possession of all 3 cats. Both parties also seek reimbursement for the respective costs each of them allegedly incurred after their separation to care for the cats. The parties' submissions suggest that Cinnibon and Caboose are currently in the care of Mr. Harrison and Fizzgig is currently in the care of Mx. West.

14. Based on the evidence and arguments before me, the parties agree that they lived together as common law partners from 2016 to November 2020. This is confirmed in an agreed statement of facts. This means the parties were spouses, as defined in FLA section 3.

15. Pets are considered property under the law. Therefore, ownership of a cat generally falls within the CRT's personal property jurisdiction under CRTA section 118. However, the CRT does not have jurisdiction over the division of "family property", as defined in the FLA.

16. CRTA section 10 says that the CRT must refuse to resolve a dispute that it considers not within the CRT's jurisdiction. Therefore, if Fizzgig, Cinnibon and Caboose are "family property", then the CRT must refuse to resolve each of the party's respective claims for ownership and possession of Fizzgig, Cinnibon and Caboose.

17. "Family property" is defined in FLA sections 84 and 85. Section 84 says that family property includes all personal property owned by at least one spouse on the date of

separation. Section 85(1) says that property acquired by a spouse before the relationship between the spouses began is excluded from family property. Based on the evidence before me, I find that Fizzgig, Cinnibon and Caboose are family property, as defined by the FLA. According to the evidence, the parties acquired Fizzgig, Cinnibon and Caboose while they were in a relationship, and the parties lived together for more than 2 years.

18. "Family debt" is defined in FLA section 86, and includes, among other things, all financial obligations incurred by a spouse after the date of separation, if incurred for the purpose of maintaining family property.
19. As noted, both parties claim reimbursement for money they each allegedly spent caring for the cats. I have already found that Fizzgig, Cinnibon and Caboose are family property. Therefore, I find Mr. Harrison and Mx. West's respective monetary claims are claims about family debt, as defined by the FLA.
20. FLA section 88 says that a spouse may make an application to the British Columbia Supreme Court for an order respecting division of family property and family debt, and section 94 says that the British Columbia Supreme Court may make such an order. This means that the British Columbia Supreme Court has exclusive jurisdiction to make orders about the division of family property and family debt, and the CRT therefore cannot take jurisdiction over such orders.
21. For these reasons, I must refuse to resolve both Mr. Harrison's claims and Mx. West's counterclaims under CRTA section 10(1), as the CRT does not have jurisdiction over any of their respective claims.
22. Given that I have refused to resolve Mr. Harrison's claims and Mx. West's counterclaims, I direct CRT staff to refund each party's paid CRT fees.

ORDER

23. I refuse to resolve Mr. Harrison's claims and Mx. West's counterclaims under CRTA section 10(1).

Leah Volkers, Tribunal Member